



5/10/2023

Dave Lane

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Tēnā koe Dave

OIA: 1316436 - Google & Microsoft software for public schools in New Zealand

Thank you for your email of 17 August 2023 to the Ministry of Education (the Ministry), which was then clarified on 7 September 2023 to be requesting the following information:

- 1. I would like copies of the tender documents from which the Google and Microsoft agreements resulted. If there are none, I'd like an explanation of why not.*
- 2. the role(s) within the Ministry responsible for signing-off the decision to procure Microsoft and Google technologies for schools.*
- 3. the timeline, i.e. key dates, on which decisions were signed-off and communications including the reasons/justification for these sign-offs.*
- 4. the name(s) of the Ministry department(s) (and in which Ministry) that negotiated the contracts with Microsoft and Google.*
- 5. any consultation documents from external experts identifying and comparing digital technology options with relevance to the initial decision to procure Google or Microsoft software, especially those listing concerns or liabilities.*
- 6. digital technology marketing materials considered by Ministry decision makers related to the Microsoft and Google deals.*
- 7. dated minutes (including list of attendees) of meetings up until the completed agreements in which the options of selecting Microsoft and/or Google technologies were discussed.*
- 8. any documents identifying alternatives to Microsoft and Google technologies, that were considered but dismissed, and any documents explaining reasons why.*
- 9. a timeline of meetings between the Ministry staff and Microsoft and Google employees (or their commercial partners) including minutes and attendance.*



10. a list of any external experts, including legal advisors, consulted in the course of this process, including any declarations of pecuniary interests (or noting that those were never requested).

Your request has been considered under the Official Information Act 1982 (the Act).

The decision as to which software products to use and whether to provide software licences to students is made by individual schools and not by the Ministry. This is because each school is an independent entity governed by its own school board. Schools are also free to decide which technology platforms to deploy for their students.

Schools were already using Microsoft and Google software before the Ministry commenced any procurement. However, centralised funding has resulted in reduced costs to schools and additional value.

I have responded to your questions with regard to Microsoft and Google individually below.

Microsoft:

I believe the decision to procure Microsoft software for use in schools occurred in 2002, but am unable to confirm this because the original contract and associated documents are listed in the Ministry's record management system as missing as at 2015. Furthermore, I am unable to confirm the existence of any consultation documents, marketing material, minutes, timelines of meetings or any other documents pertaining to the Microsoft procurement.

I am therefore refusing **parts 1, 3, 5, 6, 7, 8, 9 & 10** of your request under section 18(e) of the Act, as the documents alleged to contain the information requested do not exist or, despite reasonable efforts to locate them, cannot be found.

However, I can provide Microsoft's standard commercial service agreement signed between Microsoft and users of their services, which is a similar type of service agreement to that which the Ministry would have signed for procurement of Microsoft software:

- <https://www.microsoft.com/en-nz/servicesagreement/>
- <https://www.microsoft.com/en-nz/trust-center/privacy>

In response to **part 2** of your request, subject to the total cost of procurement, the sign-out may sit with either the Secretary or Deputy Secretary for Education. The procurement must also be endorsed by the Chief Digital Officer prior to sign-off.

In response to **part 4** of your request, at the time of the contract negotiations, the Ministry's business units that negotiated the last contract variation with Microsoft were the Procurement and Information Technology groups. The current names of these departments are Te Pou Rangatōpū, the Ministry's Corporate Services business group, and Te Pou Hanganga, Matihiko, the Ministry's Infrastructure and Digital business group.

I cannot name the business units in other Ministries that may have negotiated contracts with Microsoft, as each contract was signed internally within each Ministry or department. I am therefore refusing this aspect of your request under section 18(g) of the Act, as the information is not held by

the Ministry, and I have no grounds for believing that it is either held by or more closely related to the functions of another department or organisation subject to the Act.

Google:

There was no tender for the Google agreement, so I am refusing **part 1** of your request under section 18(e) of the Act as the information does not exist. The most relevant document the Ministry holds is the Google for Education Partnership Agreement, which is attached as **Appendix A**.

In response to **part 2** of your request, the roles responsible for signing-off the decision to procure Google technology license for use in schools are as follows: Deputy Secretary, Legal Services, Chief Digital Officer, Commercial Manager – IT Group, Chief Procurement Officer, Procurement Manager – ICT and Commercial Manager Corporate.

In response to **part 3** of your request, the agreement for the supply of Chrome Education Licences was entered into on 11 October 2018. On 26 July 2021, the new three-year agreement was signed.

In response to **part 4** of your request, the Ministry departments that negotiated the Google contracts are Te Pou Rangatōpū, the Ministry's Corporate Services business group (Procurement) and Te Pou Hanganga, Matihiko, the Ministry's Infrastructure and Digital business group (IT Group), as above.

I cannot name the business units in other Ministries that may have negotiated contracts with Google, as each contract was signed internally within each Ministry or department. I am therefore refusing this aspect of your request under section 18(g) of the Act, as the information is not held by the Ministry, and I have no grounds for believing that it is either held by or more closely related to the functions of another department or organisation subject to the Act. .

In response to **part 5** of your request, the Ministry does not hold any consultation documents, as no external experts were consulted in the decision to procure Google software. As such, I am refusing this part of your request under section 18(e) of the Act, as the information requested does not exist.

In response to **part 6** of your request, the Ministry has been unable to locate any digital technology marketing material held, so I am refusing this part of your request under section 18(e) of the Act, as the information does not exist or, despite reasonable efforts to locate it, cannot be found. Furthermore, most of the decision-makers of the procurement of Google software have since left the organisation.

I am refusing **part 7** of your request under section 18(e) of the Act, as the information does not exist because it was not a requirement for formal minutes of these meetings to be taken.

In response to **part 8** of the request, the Ministry did not consider alternative technology as most schools were already using Google. The procurement of paid licences was to support the decisions made by schools in previous years regarding the use of Google software in classrooms. In 2021, to support the choice of many schools and provide additional Google security and functionality, the Ministry made the decision to also provide Google Workspace for Education Plus (GWfE+) paid licences to New Zealand schools. Over 1,000 schools have opted to move from the free Google Workspace for Education Foundation (GWfEF) licences to the GWfE+ licences.

I am therefore refusing your request for documents identifying alternatives to Google technologies under section 18(e) of the Act, as the information requested does not exist.

In response to **part 9** of your request, meetings between Ministry staff and representatives from Google occurred every week from 6 April 2022 until 6 June 2023 on Tuesday at 3:30 pm. As it was not a requirement for formal minutes for these meetings to be taken, I am refusing this part of your request under section 18(e) of the Act, as the information requested does not exist.

In response to **part 10** of your request, the Ministry consulted with Hicksons Lawyers for legal advice. No declaration of pecuniary interests was requested.

Please note, we may publish this response on our website after five working days. Your name and contact details will be removed.

Thank you again for your email. You have the right to ask an Ombudsman to review my decision on your request, in accordance with section 28 of the Act. You can do this by writing to xxxx@xxxxxxxxx.xxxxxxxxxx.xx or to Office of the Ombudsman, PO Box 10152, Wellington 6143.

Nāku noa, nā

Stuart Wakefield

Stuart Wakefield
Hautū Taupua | Acting Deputy Secretary
Te Pou Hanganga, Matihiko