



Report of the
Controller and
Auditor-General

Tumuaki o te Mana Arotake

on

Inquiry into Public
Funding of Organisations
Associated with
Donna Awatere Huata MP

November 2003

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Summary Report

In January 2003, Hon Richard Prebble MP, leader of the ACT New Zealand parliamentary party, asked the Controller and Auditor-General to inquire into certain allegations of financial impropriety involving one of his party's list members, Donna Awatere Huata MP.

The Background to Our Inquiry

The allegations involved money owned by the Pipi Foundation Trust ("Pipi"), a private trust established by Mrs Awatere Huata in 1999 to deliver a children's reading programme known as the *Four Minute Reading Programme*, which Mrs Awatere Huata had developed in the 1970s.

The Auditor-General is not the auditor of private trusts. We therefore had no power to investigate the allegations of financial impropriety surrounding Pipi's funds. Both the Police and the Serious Fraud Office have made inquiries into those matters.

But it was also apparent that some (if not all) of the money that was the subject of the allegations had originated from public sources – primarily through a series of funding contracts between Pipi and the Ministry of Education. As the auditor of public entities (including the Ministry of Education), the Auditor-General has an interest in ensuring the integrity of such funding arrangements.

Our preliminary inquiries also revealed that:

- Pipi may have received funding from a number of public entities besides the Ministry of Education;
- some of Pipi's funds had (it was alleged) been paid to or from other private trusts and organisations with which Mrs Awatere Huata was associated; and
- those other organisations had themselves been the recipients of public funds.

In the normal course of events, we would have expected the funding agencies themselves to have taken steps – through the medium of the funding contracts – to check and verify that the funds they had made available had been spent properly and for the purposes for which they had been given.

We decided that an inquiry was justified because:

- Irrespective of whether the allegations of fraud involving Pipi funds were true, the suggestion that funds of public origin may have been available to be misspent at all brought into consideration the possibility either that the contracted services had not been fully delivered or that more public funds than necessary had been provided for the purpose. This raised a question about the integrity of the systems used by the individual funding agencies – both in the making of contracts with private organisations and in monitoring and overseeing their service delivery.
- At least five different funding agencies appeared to have been involved in providing funds either to Pipi or to other associated organisations. This raised cross-sectoral issues – such as the prevention of “double dipping” – that the Auditor-General (as the auditor of all the funding agencies involved) was well placed to consider.
- Mrs Awatere Huata herself had been personally involved in seeking, from Ministers and officials, funding for Pipi and other related organisations. Irrespective of whether she had done so in her personal capacity or as an MP, this raised a question about what is (or ought to be) expected of MPs when their private business interests bring them into contact with fellow politicians and the bureaucracy. Although the Auditor-General does not oversee the actions of MPs, the question is relevant to the integrity of public funding systems.
- The allegations had significant implications for Parliament itself, because of the move to suspend Mrs Awatere Huata’s membership of ACT New Zealand until the allegations against her had been fully investigated.

The Terms of Reference

The full terms of reference are reproduced in Appendix 1 on page 141.

We aimed to:

- identify all funding arrangements¹ (whether involving contract for services or grant) and between public entities and organisations with which Mrs Awatere-Huata has an interest² since her election to Parliament in 1996;

¹ Funding arrangements – means any grant of funds for any purpose (including capacity building) and any contract under which goods or services (including consultancy services) were provided to a public entity.

² “Interest” includes both financial and non-financial interests.

- examine the process by which each individual funding decision was made, including whether a contestable process was or ought to have been used, by the public entities concerned;
- review the appropriateness of the funding entities' arrangements for monitoring the implementation and performance of the individual contracts for services or grants and the effectiveness of that monitoring (that is, did it ensure they received what they contracted for); and
- identify whether the organisation receiving the funding appeared to have performed and/or complied with its contractual obligations or any grant conditions.

The Focus of the Inquiry and This Report

The main focus of our inquiry was on the actions of the five public entities that have provided funding to organisations associated with Mrs Awatere Huata since she became an MP. The five public entities are:

- the Ministry of Education;
- The Ministry of Maori Development: Te Puni Kokiri;
- the Department of Labour and, specifically, its Community Employment Group;
- Poutama Trust; and
- Trade New Zealand (since incorporated into New Zealand Trade and Enterprise).

Most of this report contains our assessment of the standards of administration applied by the public entities when considering applications for funding from the organisations concerned. The report looks at the issues from the public entities' perspective – based on the information that was available to them, and the standards of best practice that applied, at the time.

We heard a lot during our inquiry about the merits of the projects that were being funded, and the adequacy of the level of funding given for many of the projects. We were told that inadequate funding placed unreasonable pressures on the organisations that were undertaking them.

Our inquiry was not concerned about those matters. We express no view on whether any of the projects were either worthwhile or adequately funded. Nor should any such view be inferred from anything we say about the actions of the funding entities.

4th Term of Reference

The fourth term of reference involved examining whether the organisations that received funding from the public entities had performed and/or complied with their obligations under the funding arrangements. Such conditions and requirements typically include:

- periodic reporting of progress against project objectives;
- keeping adequate accounting records;
- providing financial information to the funding entity - both generally (for example, in the form of audited financial statements) and in relation to a specific project; and
- making disclosures about a funded project in the recipient organisation's annual financial statements.

In many instances we found that the funding entities' records in relation to their contract management and monitoring were incomplete. This meant that we needed to seek the information by other means - including by accessing the records of the recipient organisations themselves. We made only limited progress in doing so (despite using our powers under the Public Audit Act 2001 to require production of information), and are still seeking some of the organisations' co-operation.

Our report therefore contains only limited findings relating to the fourth term of reference. We will report further on it at a later date

The Statutory Mandate for the Inquiry

The Auditor-General's mandate for an inquiry of this nature is in sections 16(1) and 18(1) of the Public Audit Act 2001. Those sections say –

16 Performance audit

- (1) *The Auditor-General may at any time examine—*
- (a) *the extent to which a public entity is carrying out its activities effectively and efficiently:*
 - (b) *a public entity's compliance with its statutory obligations:*
 - (c) *any act or omission of a public entity, in order to determine whether waste has resulted or may have resulted or may result:*
 - (d) *any act or omission showing or appearing to show a lack of probity or financial prudence by a public entity or 1 or more of its members, office holders, and employees.*

...

18 Inquiries by Auditor-General

(1) The Auditor-General may inquire, either on request or on the Auditor-General's own initiative, into any matter concerning a public entity's use of its resources.

Our Mandate in Relation to MPs

The Public Audit Act does not confer a mandate on the Auditor-General to investigate the actions of a Member of Parliament as such. In this case, the *scope* of the inquiry was determined with reference to Mrs Awatere Huata's interests in, or associations with, organisations that had been in receipt of funds from public entities. But the *substance* of the inquiry was on the actions of the funding agencies.

Nevertheless, sections 20 and 21 of the Public Audit Act also say –

20 Reports to House of Representatives

In addition to the annual report prepared under section 37, the Auditor-General must report at least once every calendar year to the House of Representatives on matters arising out of the performance and exercise of the Auditor-General's functions, duties, and powers.

21 Reports to Minister, committees, etc

The Auditor-General may report to a Minister, a committee of the House of Representatives, a public entity, or any person on any matter arising out of the performance and exercise of the Auditor-General's functions, duties, and powers that the Auditor-General considers it desirable to report on.

If the inquiry revealed issues about Mrs Awatere Huata's conduct, or matters relating to what ought to be expected of MPs generally in pursuing their private interests with Ministers or the bureaucracy where the expenditure of public funds could result, we determined that we would comment on those matters using the powers under one or both of those sections.

Our Conclusions on the Funding Arrangements

On pages 20-22 we describe the organisations with which Mrs Awatere Huata has been associated since her election to Parliament in 1996.

We summarise the funding arrangements with those organisations on pages 22-25. The total amount of funding under those arrangements was \$1,980,854, obtained from public entities as follows –

Funding Entity	Amount (GST inclusive)
Ministry of Education	766,192
Ministry of Maori Development: Te Puni Kokiri	544,062
Community Employment Group of the Department of Labour	636,000
Poutama Trust	13,726
Trade New Zealand	11,160
Industry New Zealand*	9,714
Total	\$1,980,854

* We did not look in detail at the arrangements for this funding.

Chapters 4 to 9 deal with the specific arrangements entered into by each of the five funding entities.

Capacity Building Grants

Three public entities – the Ministry of Education, Te Puni Kokiri, and the Community Employment Group – collectively funded nearly \$2 million to the organisations in question by way of capacity building grants. We were pleased that all three entities had policies and procedures in place that included guidance on assessing and approving funding applications, and managing and monitoring the funding arrangements.

These policies and procedures on the whole reflected good practice. However, the policies and procedures were not followed in many instances and in others they needed to be strengthened. Our concerns relate to the following areas:

The Decision-making Process for Funding

- All the entities need to establish procedures to review the governance and accountability arrangements of organisations that have applied for funding. Such a review should include –
 - checking the legal status of the organisation (including a review of its constituting documents);
 - checking that there is adequate segregation of duties between the governing body and management;
 - assessing the potential for personal benefit to any of the Trustees;

- assessing the ongoing financial viability of the organisation; and
 - checking whether or not the organisation has applications to or is receiving funding from other government agencies for the same or a similar purpose.
- Each of the funding entities needs to better document their decision-making processes. This is especially important in cases where the entity has departed from its own policies and procedures. In such cases, the entity should fully document the reasons for departing from the applicable policies and procedures, the effect of the change, and what additional procedures have been put in place to mitigate any risks arising from the change – for example, more intensive monitoring.
 - Each of the funding entities needs to identify potential conflicts of interest, and develop procedures to address these over the duration of the contract.

The contract itself should –

- clearly identify the intellectual property rights to the reports, information or programmes developed as a result of the funding.
- consider whether there needs to be a provision for the treatment of any surpluses that arise, should the funding provided be more than the actual cost of delivering the services.
- Align the instalment payments with expected deliverables.

Contract Management

Contract monitoring and management was poorly performed by all three funding entities. Each public entity needs to:

- ensure that it obtains an in-depth breakdown of the actual costs of the projects funded and review these costs for reasonableness;
- require production of, and make sure that it receives, annual audited financial statements of the organisations that it is funding, within specified time frames;
- better document the contract monitoring and management undertaken – this includes:
 - recording the funded organisation's compliance with all contractual obligations associated with the funding arrangement;

- documenting the results of site visits and management meetings held with the funded organisation; and
- documenting all significant issues that arise during the contract and how these issues are addressed;
- ensure that final project reports are received on a timely basis.
- where a contract is to be varied or extended for a future period, review carefully the costs of the project, what has been achieved to date, and what still has to be achieved – before progressing on to the next phase.

Grants for Other Than Capacity Building

Te Puni Kokiri provided a number of grants prior to the introduction of specific funding for capacity building. We had significant concerns about one contract in particular, which concerned a grant of \$120,000 to Te Runanga o Ngai Tane in respect of a horticultural development project in Wairoa. This is the subject of a full case study in Chapter 6 of the report. In summary, our concerns were:

- We had reservations about whether the project could properly have been funded by TPK as a policy agency.
- We were not convinced that the substantial amount of money paid to the Runanga for the project was adequately reviewed or costed before the funding contract was entered.
- The Minister of Maori Affairs had been advised that TPK should not fund Te Runanga o Ngai Tane directly for the project, but that TPK should itself administer the project via contracts directly with providers. The Minister had accepted that advice. TPK's decision to make the funds available directly to the Runanga appears to have been made without seeking the Minister's agreement to the change, and without any revisiting of the original costings.
- The funding decision was poorly documented. Despite interviewing a number of parties on oath, we were unable to ascertain precisely why, or by whom, the funding arrangement was changed to one involving direct payment to the Runanga.
- We were not satisfied that the final payment under the contract was appropriately made, given that:
 - the contract required that the services be completed "to the satisfaction of" TPK;
 - evidence from our interviews showed that officials were not satisfied that the contract had been fully performed; and

- we found no documentary evidence that would otherwise have justified the payment.
- There was inadequate documentary evidence of how contract payments were authorised, and normal invoice approval processes appear not to have been followed.

Travel Grants and Sponsorships

Poutama Trust and Trade New Zealand (which collectively funded nearly \$35,000 in travel grants and sponsorships) had funding criteria against which grant applications were assessed. However, in both cases we were not satisfied that the funding entity had obtained sufficient information to ensure that funded organisations had met those criteria. We found problems in both the application assessment processes and the following up of the achievement of the objectives set for the travel.

In particular, each entity should:

- Clearly document how an application meets the criteria and, where any weaknesses in the application are identified, document how these are addressed.
- Do a more robust analysis of the funded organisation's business case to ensure the reasonableness of the assertions made.
- Ensure that funding has not been provided for the same or a similar purpose by other agencies and, where it has been, ascertain the scope and nature of that funding.
- Ensure that it receives a written report documenting the achievements against the objectives set.
- Ensure that the funded organisation complies with all its contractual obligations under the funding arrangement.

Double-funding

Double-funding is always a risk for any funding entity, whether in the public or private sector. Particular care is needed in the public sector, where taxpayer or ratepayer funds are involved. Knowing what other funding the applicant organisation has sought or received, either for the project that is the subject matter of the application or for any similar work over the same period, is a critical aspect of any funding decision.

Each of the public entities had policies and procedures designed to ensure that the funded organisation confirmed, both during the application

process and at each contract renewal stage, what if any funding was being received from other funding entities. However, in some cases this was either not done or not documented.

We found a number of cases where projects were funded by more than one public entity. In other cases, different projects funded by different public entities had what appeared to be very similar, overlapping, objectives. For example, in 2001-02 Pipi was funded by the Ministry of Education, CEG (\$40,000) and TPK (\$30,000) for work relating to the *Four Minute Reading Programme*.

Mrs Awatere Huata's Involvement

Chapter 3 of the report:

- explores the standards of conduct expected of MPs in their dealings with Ministers and officials over the funding of programmes and organisations in the non-governmental sector;
- describes the nature and extent of Mrs Awatere Huata's dealings with Ministers and officials in respect of public funding for organisations with which she was associated; and
- comments on the implications of that conduct for the funding systems and arrangements.

Standards of Conduct Expected of MPs

There are currently no formally recognised standards governing MPs' conduct when seeking funding of programmes or organisations, other than in the context of parliamentary proceedings. In summary, we understand the following standards to apply in New Zealand:

- An MP must not use, or be perceived to use, his or her position for any direct financial benefit, whether personally or for a near relative.
- In any dealings with Ministers or officials, an MP must always act transparently and disclose his or her professional or personal interests (including those of near relatives, friends, and business or other associates).
- It is acceptable for an MP to lobby Ministers for funding of programmes and projects in which they have a political or professional interest.
- Some degree of overlap is acceptable between an MP's non-financial personal interests and those of the MP's constituents or community.

- An MP must not subject officials to pressure by direct contacts in matters in which the MP has a personal interest (whether financial or otherwise).
- An MP can never be seen to act solely in a private capacity when seeking financial or other benefits from Ministers or officials.

The Nature of Mrs Awatere Huata's Involvement and Influence

The evidence shows a considerable amount of involvement and influence by Mrs Awatere Huata, throughout the period of her tenure as an MP, in respect of a large number of funding proposals. Her involvement and influence was of two types:

- In her capacity as an MP, when seeking funding for the *Four Minute Reading Programme* (see paragraphs 3.37-3.62 on pages 34-40).
- In a support role for her husband, Mr Wi Huata, in respect of projects being undertaken through organisations with which he was primarily involved (see paragraphs 3.63-3.73 on pages 40-42).

The implications of Mrs Awatere Huata's conduct for systems of public administration

Our comments on these matters are stated in paragraphs 3.74-3.103 on pages 42-47. They are made in the context of the standards for MPs (summarised above), and from the perspective of the Auditor-General's interest and mandate in protecting the integrity of the system of public administration and the expenditure of public funds in respect of non-governmental organisations.

We identified two possible instances of Mrs Awatere Huata using her position as an MP for pecuniary gain. We comment on these in paragraphs 3.76-3.86 on pages 43-45.

The rest of Chapter 3 contains our comments on the implications of Mrs Awatere Huata's non-financial interests for the funding of organisations with which she was associated.

The *Four Minute Reading Programme*

Mrs Awatere Huata readily accepted that she used her position as an MP to lobby Ministers for funding for the *Programme*. She asserted that this was appropriate, because of her passionate interest in literacy, her belief in the programme she had developed, and the request of her whanau and the Pipi Foundation to take the *Programme* forward.

The ACT Party seems to have recognised her passion, and supported her lobbying for funding in an area she was interested in and which would have advanced a positive outcome for the reading skills of young Maori, so long as:

- appropriate steps were taken to ensure transparency;
- there was no apparent or actual possibility of private benefit or gain; and
- the lobbying fell within the bounds of propriety and good judgement.

We note that (with the exception of her letter to the Treasurer on 19 February 1999 – see paragraph 3.45 on page 36) the Ministers that Mrs Awatere Huata approached were comfortable that she acted properly by disclosing the nature of her *professional* interest in the *Programme*.

Nevertheless, we have some concerns about her conduct. Although Mrs Awatere Huata did take steps to reflect a distancing from the project through the Pipi Foundation mechanism, her actual involvement in or association with Pipi did not reflect such a distancing. Further, her persistent approaches to officials seeking release of the funds to Pipi, and complaining about the delay, were clearly unsettling to the officials.

In our view:

- the pressure Mrs Awatere Huata put on them went beyond the bounds of good judgement as an MP, albeit that she considered she was advocating for the Trust;
- it is important that there be clarity in the dealings that an MP has with officials, and in this case there was an unacceptable amount of ambiguity in respect of Mrs Awatere Huata's role; and
- the pressure that Mrs Awatere Huata put on officials, combined with the lack of clarity as to her role, significantly undermined the integrity of the processes that had to be followed to give effect to the Cabinet decision to fund the *Programme*.

Other Funding Proposals

Mrs Awatere Huata also accepted that she had, on occasions, approached Ministers seeking funding for projects that Mr Huata was promoting, and that she had provided regular assistance to her husband in negotiating with officials over funding for his projects. She claimed that this was in a private capacity.

We acknowledge that Mrs Awatere Huata's involvement was usually to support her husband, that the Ministers and officials involved understood this, and that they often found her involvement beneficial. However, we agree with the view consistently expressed to us by senior parliamentarians that an MP sets aside that "private capacity" when taking up public office, as far as their conduct in accessing public resources and lobbying to that effect is concerned. In any case, we found that there were instances where her involvement on her husband's behalf was in her capacity as MP.

We are also concerned about the overall extent of Mrs Awatere Huata's involvement in the various funding matters. Although we accept her contention that, on their own, none of her interventions to support her husband could be described as improper, and that Mrs Awatere Huata may have believed that there was good reason to intervene in the negotiations in each case, we were nevertheless surprised at the number of references to her involvement. The record shows a consistent pattern that goes beyond an involvement in a representative capacity. She clearly took a keen interest in Mr Huata's projects and was equally keen for them to receive funding.

Concluding Comment

The evidence shows a considerable amount of involvement and influence by Mrs Awatere Huata, throughout the period of her tenure as an MP, in respect of a large number of funding proposals. The nature of her interests in those matters varied from one to another, and over time. Even now, the extent of some of her interests remains uncertain. But interests there were, and on any reading of the evidence they were not insubstantial.

In her interview with us, Mrs Awatere Huata accepted that she may not have acted wisely in some cases, and ought to have distanced herself. However she asserted that her conduct did not cross the boundary between what is and is not acceptable for an MP.

Mrs Awatere Huata also explained to us the pressures that can be placed on an MP in her situation – as a professional woman representing a small and impoverished community. In her view, these pressures needed to be taken into account when understanding her conduct.

We accept Mrs Awatere Huata's contention that, in examining each of her interventions, it is necessary to look not only at the capacity in which she became involved but also at the legitimacy of her involvement. But we do not agree with her that the cumulative picture is of no relevance.

Our concern, as stated above, is with the integrity of the systems of public expenditure. Our report describes the risks to the system of public administration of MPs being involved in this type of activity – in particular, arising from their greater access to Ministers and officials than ordinary citizens have, their ability to wield influence, and the potential for their interventions to politicise the public service.

We have reviewed a large number of transactions, involving five funding entities over a period of six years. The fact that Mrs Awatere Huata was an MP meant that the risks existed on each and every occasion on which she intervened. To us, the cumulative picture presented by the evidence shows a level of potential for undue influence and perceived distorting of systems and processes that was unacceptable.

Matters for Future Audit

In our *Annual Plan 2003-04*, we indicated our intention to undertake a cross-sectoral audit of public entity contracting procedures.³ We said –

We have experienced a wide range of enquiries in relation to contract management practices in local government (such as contracting for infrastructure development) and in central government (contract management for funding non-government organisations (NGOs), for example).

We will consider the potential for more generic advice about contract management insofar as it can cover common issues – with the potential for further performance or annual audit actions at a later date.

The issues that have come to light in the course of this inquiry have confirmed the need for that more general work to be undertaken. Some of the contracts and grants we have looked at during our inquiry will form valuable case study material for the further work. We expect to begin on the cross-sectoral audit in 2004.

K B Brady
Controller and Auditor-General

5 November 2003

³ Parliamentary paper B.28AP(03), 2003, pages 49 and 57.

Chapter 1

Introduction

Purpose of Our Inquiry

- 1.1 The Auditor-General was asked to investigate whether Donna Awatere Huata MP, had some involvement in alleged inappropriate spending of public money paid to the Pipi Foundation for a children's reading programme. The allegations included reference to public money paid to other organisations with which Mrs Awatere Huata is associated and/or in which she has had an interest (financial or otherwise, whether directly or through near relatives).
- 1.2 The allegations raised wider questions about the integrity of the management under which taxpayer funds have been paid (by any public entities) to organisations with which Mrs Awatere Huata is associated and/or in which she has or has had an interest. The Auditor-General therefore decided to conduct an inquiry into matters concerning that funding.

What Our Inquiry Covered

- 1.3 The terms of reference for the inquiry are listed in Appendix 1 on page 141. Under the terms of reference, we:
- identified all funding arrangements⁴ (whether involving contract for services or grant) between public entities and organisations with which Mrs Awatere Huata has an interest since her election to Parliament in 1996;
 - examined the process by which each individual funding decision was made, including whether a contestable process was or ought to have been used, by the public entities concerned;
 - reviewed the appropriateness of the funding entities' arrangements for monitoring the implementation and performance of the individual contracts for services or grants and the effectiveness of that monitoring (that is, Did the entities ensure they received what they contracted for?); and
 - identified whether the organisation receiving the funding performed and/or complied with the contractual obligations/grant conditions.

⁴ By "funding arrangements" we mean any grant of funds for any purpose (including capacity building) and any contract under which goods or services (including consultancy services) were provided to a public entity.

What We Did

- 1.4 We began our inquiry by interviewing Mrs Awatere Huata and asking her to advise us of all organisations⁵ with which she was associated⁶ or in which she had an interest⁷ (whether financial or otherwise, and either directly or through near relatives⁸) since her election to Parliament in 1996.
- 1.5 We then identified all those public entities⁹ that, in our view, may have potentially provided funding to entities associated with Mrs Awatere Huata. We wrote to each of these public entities requesting confirmation of whether or not they had entered into any funding arrangements with any of the associated entities since the 1996 general election.
- 1.6 We then visited each of those entities that responded positively to our request. We reviewed their contract files and obtained copies of relevant documentation in relation to the contract negotiation, management and monitoring of the funding arrangements. We also requested specific information directly from Mrs Awatere Huata, Mr Wi Huata and a number of other parties.
- 1.7 We conducted a range of interviews (some under oath) with officers of these public entities, former Ministers, and other parties (including Mrs Awatere Huata and Mr Huata). Their recollections of events were of substantial assistance to us in clarifying gaps in the documentation trail and getting a balanced view of the issues that arose from our documentation review.

What Our Inquiry Did Not Cover

- 1.8 Our inquiry was restricted to those matters within the Auditor-General's mandate. It looked at the adequacy of the performance of the public entities that had entered into funding arrangements with entities associated with Mrs Awatere Huata.
- 1.9 While our inquiry concentrated on funding arrangements with organisations associated with Mrs Awatere Huata, the Auditor-General is not the auditor of those organisations. Nor does he have any accountability or responsibility to their stakeholders.

⁵ Organisation – means companies, trusts and other vehicles whether incorporated or otherwise.

⁶ Associated – included being a director, a shareholder, a settlor, a trustee, or a beneficiary, or having a near relative in any of those positions.

⁷ Interest – includes both financial and non-financial interests.

⁸ Near relative – means Mrs Awatere Huata's husband, and the children (whether dependent or otherwise), parents, sibling and siblings-in-law of Mrs Awatere Huata and/or her husband.

⁹ Public entity – means any government department, Crown Entity (including a district health board and its predecessors), local authority, and other entity over which the Auditor-General has jurisdiction under the Public Audit Act 2001.

Chapter 2

Organisations Associated with Mrs Awatere Huata That Have Received Public Funds Since She Became an MP

2.1 In this chapter we identify the organisations with which Mrs Awatere Huata has an association in some form, and list the funding contracts between those organisations and public entities since 1996.

Organisations Associated with Mrs Awatere Huata

2.2 We identified the following organisations with which Mrs Awatere Huata has been associated since her election to Parliament in 1996. We have classified them according to the nature of her interest during the period under review. There were three different types of association or interest:

- direct interest either through shareholding, directorship or trusteeship;
- associated interest through Mr Huata's involvement as shareholder, director or trustee; and
- indirect interest through other near relatives being involved in governance and/or management of the organisation.

Direct Interest

2.3 **IHI Communications and Consultancy Limited**

A limited liability company. Mrs Awatere Huata holds an 89% shareholding in the company and is its sole director. Mr Huata has a 10% shareholding in the company.

2.4 **Aotearoa Horticulture Limited**

A limited liability company, owned 50% by Te Huawhenua Trust Board (see paragraph 2.6) and 50% by IHI Communications and Consultancy Limited. Mr Huata is a Trustee of Te Huawhenua Trust Board, holds a 10% shareholding in IHI Communications and Consultancy Limited and is the Managing Director and sole director of Aotearoa Horticulture Limited. Mrs Awatere Huata holds an 89% shareholding in IHI Communications and Consultancy Limited and is that company's sole director. Mr Huata told us that Aotearoa Horticulture Ltd has never traded, other than to receive grant monies from Te Huawhenua Trust Board, Te Runanga o Ngai Tane, Trade New Zealand, Te Puni Kokiri and Poutama Trust.

2.5 Totally Hawkes Bay Limited

A limited liability company, and wholly owned subsidiary of Te Huawhenua Trust Board. The Company has two directors, Mr Huata – Managing Director and Mrs Awatere Huata – Director.

2.6 Te Hinu Oriwa Community Trust

An incorporated Charitable Trust. Mrs Awatere Huata is a Trustee of the Trust.

Associated Interest

2.7 Te Huawhenua Trust Board

An incorporated Charitable Trust. Mr Wi Huata is a Trustee and Chairperson of the Trust Board, and members of Mr Huata’s immediate family are Trustees and employees of the Trust Board. Mrs Awatere Huata was the founding Chairperson of the trust, but resigned before she became an MP and is not currently a trustee.

2.8 Te Runanga o Ngai Tane

An incorporated Charitable Trust. Mr Wi Huata is a Trustee and Chairperson of the Trust, and members of Mr Huata’s immediate family are Trustees of the Trust.

2.9 Pipi Foundation Trust

An incorporated Charitable Trust. Mr Wi Huata is a Trustee and Chairperson of the Trust. Mrs Awatere Huata was the Settlor of the Trust.

(Further details of her associations with Pipi, and her involvement in its activities, are given on pages 35-40.)

2.10 Young Designers Scholarship Trust

An incorporated Charitable Trust. Mrs Awatere Huata was the Settlor of the Trust. Her daughter was a Trustee of the Trust.

2.11 Totally Hawkes Bay Construction Limited

A limited liability company, owned 50% by Te Huawhenua Trust Board and 50% by Te Runanga o Ngai Tane. Mr Huata is a Trustee of both the owner organisations and is the Managing Director of the company. Mr Huata told us that the Company has not traded.

2.12 **Aotearoa Marine Limited**

A limited liability company. Mr Huata holds a 90% shareholding in the company and is a director. Mr Huata told us that the Company has not traded.

2.13 **AGROLAB Limited**

This was a limited liability company, but was struck off the Companies Register on 10 November 2001. Mr Huata had a 33% shareholding in the company and was a director.

Indirect Interest

2.14 **Tauparanui Te Kohanga Reo**

A Te Kohanga Reo. Members of Mr Huata's immediate family are on the governing body and hold management positions in the organisation.

2.15 **Te Kura Kaupapa Maori O Ngati Kahungunu Ki Heretanga**

A school. Members of Mr Huata's immediate family are involved in the governance and management of the organisation.

Funding Arrangements

What Arrangements Did We Identify?

2.16 In this section we summarise the funding arrangements entered into by public entities with organisations associated with Mrs Awatere Huata since she was elected to Parliament in 1996. The public entities were the Ministry of Education, the Ministry of Maori Development: Te Puni Kokiri, the Department of Labour through its Community Employment Group, Poutama Trust, Trade New Zealand, and Industry New Zealand. Full details of the contracts, and the projects they funded, are set out in Appendix 2 on pages 142-152.

2.17 The funding arrangements¹⁰ fell broadly into four categories:

- **Economic development initiatives** covering a range of activities primarily with a horticultural theme –
 - Maori land development in the Wairoa district

¹⁰ We also were advised of funding arrangements primarily in the nature of benefits and subsidy payments through the Ministry of Social Development totalling \$25,811 to a number of the entities identified above. Given the nature and small amounts involved, we did not follow up these payments.

- developing branding and marketing strategies
- running economic summits in the Ngati Kahungunu area
- developing relationships with potential Chinese investors and investigating opportunities in the Chinese market
- developing business interests conducted by:
 - Aotearoa Horticulture Limited
 - Aotearoa Marine Limited
 - Totally Hawkes Bay Limited.
- **Educational initiatives** primarily based on the Pipi Foundation and the *Four Minute Reading Programme*.
- **Fashion industry initiatives** based on the Young Designers Scholarship Trust.

Economic Development Initiatives

2.18 The arrangements in the economic development category, in date order, are as follows:

	Date	Funding agency	Organisation funded	Contract number	Amount (GST inclusive)
1	24/12/96	TPK	THTB	737	20,250
2	1/4/97	CEG	THTB	4557	40,000
3	30/4/97	TPK	THTB	750	13,500
4	12/5/97	CEG	THTB	4646	30,000
5	1/9/98	CEG	THTB	52105	67,500
6	1/3/99	TPK	TRONT	1296	120,000
7	20/5/00	PT	AHL	–	3,262
8	15/6/00	CEG	THTB	55226	90,000
9	29/9/00	TPK	TRONT	1909/1910	45,000
10	20/2/01	TPK	THTB	2376	47,500
11	1/5/01	CEG	THTB	57842	2,000
12	23/5/01	TNZ	THTB TRONT AHL AML	–	11,160
13	5/6/01	TPK	AHL	3522	2,812
14	10/9/01	PT	THTB	-	4,839
15	9/10/01	TPK	THTB	3932	112,500
16	1/12/01	CEG	THTB	59133	119,450
17	29/6/02	TPK	THTB	5254	30,000
18	30/7/02	TPK	THTB	5312	112,500
19	23/9/02	CEG	THTB	60597	146,250
20	18/10/02	CEG	TRONT	60546	48,000
					\$1,066,211

TPK = Te Puni Kokiri
CEG = Community Employment Group
PT = Poutama Trust
TNZ = Trade New Zealand
THTB = Te Huawhenua Trust Board
TRONT = Te Runanga o Ngai Tane
AHL = Aotearoa Horticulture Limited
AML = Aotearoa Marine Limited

Educational Initiatives

2.19 The funding arrangements in the educational category, in date order, are as follows:

	Date	Funding agency	Organisation funded	Contract number	Amount (GST inclusive)
1	6/9/99	MOE	PFT	397-834	273,135
2	20/10/00	MOE (roll-over)	PFT	397-834	240,157
3	10/7/01	CEG	PFT	57896	40,000
4	30/7/01	MOE (roll-over)	PFT	397-834	252,900
5	14/8/01	TPK	PFT	3778	30,000
6	10/6/02	CEG	PFT	59812	2,000
					\$838,192

MOE = Ministry of Education

CEG = Community Employment Group

TPK = Te Puni Kokiri

PFT = Pipi Foundation Trust

Fashion Industry Initiatives

2.20 The funding arrangements in the fashion industry category, in date order, are as follows:

	Date	Funding agency	Organisation funded	Contract number	Amount (GST inclusive)
1	17/4/02	TPK	YDST	219	10,000
2	5/02	INZ	YDST	–	6,000
3	6/6/02	CEG	YDST	59962	1,100
4	10/6/02	CEG	YDST	60467	49,700
5	1/8/02	PT	YDST	–	5,625
6	9/02	INZ	YDST	–	3,714
					\$76,139

TPK = Te Puni Kokiri

INZ = Industry New Zealand

CEG = Community Employment Group

PT= Poutama Trust

YDST = Young Designers Scholarship Trust

Chapter 3

Public Administration Implications of Mrs Awatere Huata's Involvement

- 3.1 Our inquiry was primarily concerned with the funding arrangements described in the previous chapter and the standards of administration applied by the public entities that provided the funding. However, our inquiry also identified many occasions on which Mrs Awatere Huata was personally involved in relation to the funding arrangements, usually on behalf of the organisations being funded.
- 3.2 We have considered carefully whether we ought to comment on that involvement. We think it necessary to comment because:
- Mrs Awatere Huata is an MP;
 - MPs are holders of public office and in a position to exert greater influence over the funding of public programmes than ordinary citizens are; and
 - that greater influence, if exerted improperly, has the potential to distort or undermine the integrity of the funding systems and arrangements.
- 3.3 Therefore, in this chapter we:
- explore the standards of conduct expected of MPs in their dealings with Ministers and officials over the funding of programmes and organisations in the non-governmental sector;
 - describe the nature and extent of Mrs Awatere Huata's dealings with Ministers and officials in respect of public funding for organisations with which she was associated; and
 - comment on the implications of that conduct for the funding systems and arrangements.

What are the Appropriate Standards of Conduct of an MP in Seeking Public Funding of Programmes and Organisations?

- 3.4 One of the most important roles of an MP is to make representations to the Government on behalf of constituents and communities. However:
- One of the privileges of being an MP is that it allows much easier access to Ministers and officials than is available to ordinary citizens.

- MPs’ personal interests may sometimes coincide or overlap with those of their constituents or the communities they represent.
 - Communities (whether in the geographical sense or communities of interest) take a variety of forms. The nature of an MP’s association with a community may vary according to the MP’s personal or professional interests, political background, or culture.
- 3.5 Seeking Government funding for a constituent or community is a legitimate part of an MP’s representational role. However, before seeking funding on behalf of a constituent or community, an MP must consider whether he or she has an actual or potential conflict of interest – in particular, whether the MP might reasonably be expected to benefit (or be perceived to benefit) personally from the funding in a way that would be improper.
- 3.6 There is currently no code of conduct or published set of standards governing MPs’ conduct in this area. The *Cabinet Manual* contains extensive rules on Ministerial conflicts of interest.¹¹ But these rules are not binding on MPs who are not Ministers.
- 3.7 The Standing Orders of the House of Representatives require MPs to disclose pecuniary interests before participating in the consideration of any item of parliamentary business.¹² Standing Order 165 defines the term “pecuniary interest”:
- (1) *A pecuniary interest is a direct financial benefit that might accrue to a member personally, or to any trust, company or other business entity in which the member holds an appreciable interest, as a result of the outcome of the House’s consideration of a particular item of business.*
- (2) *A pecuniary interest –*
- (a) *includes a pecuniary interest held by a member’s spouse or domestic partner or by any child of the member who is wholly or mainly dependent on the member for support, but*
- (b) *does not include any interest held by a member or any other person as one of a class of persons who belong to a profession, vocation or other calling or who hold public offices or an interest held in common with the public.*
- 3.8 The Standing Orders apply only to parliamentary proceedings, and do not cover MPs’ interactions with Ministers and officials outside the House.
- 3.9 We took note of the *Code of Conduct of the House of Commons* in the United Kingdom (UK), which does address extra-parliamentary activities directly. The *Code* is quite clear on this point –

¹¹ *Cabinet Manual* 2001, paragraphs 2.46ff. The rules acknowledge that an interest may be pecuniary or non-pecuniary, direct or indirect.

¹² Standing Order 400.

In any activities with, or on behalf of, an organisation with which a Member has a financial relationship, including activities which may not be a matter of public record, such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with Ministers, Members and officials.

3.10 On “selflessness”, the *Code of Conduct* states –

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

3.11 And on “honesty” –

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts in a way that protects the public interest.

3.12 The *Code* places a ban on lobbying for reward or consideration. Guidance given on the application of the *Code* states that –

When a Member is taking part in any parliamentary proceeding or making any approach to a Minister or servant of the Crown, advocacy is prohibited which seeks to confer benefit exclusively upon a body (or individual) outside Parliament, from which the Member has received, is receiving, or expects to receive a pecuniary benefit, or upon any registrable client of such a body (or individual)...and A Member who is director of a company may not seek particular preference for that company (e.g. tax relief, subsidies, restriction of competition) in any proceeding of the House or any approach to Ministers or officials.

3.13 We discussed with Mrs Awatere Huata and a number of senior parliamentarians (past and present) what the expectations should be for an MP in the New Zealand context. In clear-cut cases the expectations seem to be well understood. For example, it seems to be accepted that an MP can pursue funding for a project in which the MP has merely a professional or community-based interest.¹³ At the other extreme, it is well understood throughout the community that using public office for direct financial gain is improper.¹⁴

3.14 However, there is a significant area between these ends of the continuum, where an MP’s personal interests may overlap with those of a constituent or a community. There is a lack of clarity about the expected standards in this area.

¹³ The *Cabinet Manual* describes these as “generic” interests held as one of a class of persons or in common with the public: paragraph 2.51. See also Standing Order 165(2)(b) of the House of Representatives (see paragraph 3.7).

¹⁴ Accepting or soliciting a bribe is a criminal offence: Crimes Act 1961, section 103.

- 3.15 Our concern is about ensuring the integrity of the systems of public administration that surround the funding of non-governmental organisations. This is a very sensitive area of Government expenditure, as reflected in the Treasury's *Guidelines on Contracting with Non-Governmental Organisations*.
- 3.16 The Government has also signalled to the community and voluntary sector a need to reduce transaction costs for contracts.¹⁵ This reinforces the need for robust and transparent processes for making funding decisions. Our interest in the standards of conduct expected of MPs (and indeed any other public office holder with an ability to influence funding decisions) is driven by the need, above all else, to preserve that robustness and transparency.
- 3.17 What follows is our own summary of the standards of conduct that we think are expected of MPs in this area. We focus on two particular elements:
- the types of benefit that an MP could derive from a successful attempt to seek Government funds; and
 - the types of influence that an MP may be able to have over the making and implementation of funding decisions.

Types of Benefit

- 3.18 We referred earlier to a continuum of types of personal benefit. The continuum covers the following range:
- **Reputational benefit**, as when the MP earns respect and/or support through pursuing political or constituents' interests successfully. The MP is seen as doing their job, with a legitimate non-financial personal benefit.
 - **Professional benefit**, as when the MP pursues and takes credit for an initiative that is consistent with his or her professional interests. An example of this is Mrs Awatere Huata's personal and professional interest in particular types of literacy programmes, and the *Four Minute Reading Programme* in particular (which she had originally developed).
 - **Indirect financial or non-financial benefit**, through public funds being made available to a community of which the MP is part or with which the MP is associated. MPs are elected to represent broad constituencies and communities. But from time to time they are called upon to lobby on behalf of smaller groups. Examples include a rural MP obtaining financial assistance for his or her local community

¹⁵ See the Statement of Government Intentions for an Improved Community-Government Relationship: *Building Strong and Respectful Relationships*.

during a drought, or a Maori MP obtaining financial assistance for a health initiative that will benefit an iwi or hapu to which they belong. We do not see any significant difference in substance between these examples. Both involve a community of interest benefiting through the lobbying power of its MP. And we need to be clear that while a Maori MP may be part of a wider kin group descended from a common ancestor (as in the case of an iwi or hapu), this does not of itself create a conflict of interest because the kin group is wider than the MP's "near relatives" (which is the term commonly used in conflict of interest situations – see Chapter 1, paragraph 1.4). We were mindful of this when assessing the benefit to Mrs Awatere Huata, for example, of the reading programme being made available through and to providers who were (in the main) members of her husband's iwi or hapu.

- **Direct financial benefit** (including those circumstances in which the benefit finds its way to the MP directly, or through a near relative). In our view, this type of benefit requires a rigorous test of relationship, which does not vary according to the MP's personal background or cultural group. In essence, the expectation is that the taking on of public office proscribes the behaviour of the office holder to the extent that he or she must not use, or even be perceived to use, their position for any form of direct financial benefit, whether personally or for a near relative.

Acting Solely in a Private Capacity

3.19 We considered the question of whether, and to what extent, an MP may act as a "private person", and if so, what conduct is acceptable in that situation.

3.20 Some senior parliamentarians we spoke to said that, when taking on public office, an MP sets aside their personal interests (and effectively disqualifies themselves from the usual freedom of a citizen to pursue their private interests with Ministers and officials). We were reminded of the prayer each day in Parliament, which includes the words –

...laying aside all private and personal interests...

3.21 Nevertheless, MPs are private individuals and may have private business interests.¹⁶ The question then arises as to how MPs distinguish between those interests and their official duties. We discussed this with the Clerk of the House, who drew our attention to a Speaker's ruling dated 26 September 1991, which concerned a letter written by an MP to an army officer, and signed as an MP, on behalf of a company in which the MP had an interest, inquiring about certain army equipment. The ruling said –

That was a mistake on the part of the member. He was acting in a private capacity when he wrote that letter, and should not have

¹⁶ The Members of Parliament (Pecuniary Interests) Bill, currently before the House, will require MPs to make annual declarations of certain pecuniary interests.

expressly invoked his status as a member of Parliament in the action that he was taking.

Nevertheless, the member does make his private interests clear, for the letter states that he is a co-director of a company that had been asked to make the inquiry. Because of that, I think that it is reasonably clear that the member did not use his official position to advance his personal interests as he wrote as a director of the company. He subsequently made that even more clear in a second letter on the same subject. ... I would take this opportunity to caution all members to be careful to keep their official and private capacities quite separate in any of their business dealings. If they do not, misunderstandings may result that are similar to the one that arose in this case.¹⁷

- 3.22 In respect of correspondence, the Clerk told us that in his view there is a strong presumption that an MP who uses parliamentary stationery or signs a letter as an MP is acting in the capacity of an MP and not in a personal capacity. Guidance prepared for new MPs by the Clerk's Office in 2002 reiterated the need for care in this respect.

Types of Influence

Lobbying Ministers

- 3.23 Lobbying Ministers on behalf of constituents and other citizens is a central part of an MP's role, and is recognised in the *Cabinet Manual*.¹⁸ MPs are also expected to continue to contribute their professional expertise after they are elected. It is clearly in the public interest that they do so.
- 3.24 Lobbying for a project that keenly interests the MP is also common. One former Minister told us that many MPs have their "pet projects", and that he became used to having to put such interests on an MP's part aside when making decisions about whether to lend support to a particular project.

¹⁷ Hansard, 1991, Vol 519, p 4541. The Speaker found that no question of privilege was involved. Moreover the letter had not been written in the context of a parliamentary proceeding.

¹⁸ *Cabinet Manual* 2001, paragraph 2.58.

- 3.25 Despite this, there are risks in MPs pursuing their own projects with Ministers. As stated earlier, one of the privileges of being an MP (whether in Government or otherwise) is that it allows much easier access to Ministers than is available to ordinary citizens. For an MP to approach a Minister about a project in which he or she has a close personal interest can give rise to an actual, or at least to a perceived, undue advantage in accessing public funding or support. An MP's "pet project" could be – as it was in the case of the *Four Minute Reading Programme* – in an area in which there is public policy debate or controversy, or where the availability of public funding is limited and/or strongly contested.
- 3.26 Mrs Awatere Huata asserted to us that it is acceptable for a back-bench MP, whose party has never been in government, to approach Ministers and officials about funding for a project in which he or she has a particular interest.
- 3.27 We do not think anything turns on whether the MP has been involved in government. We agree with the view of a former senior parliamentarian that the issue is not highly relevant in the MMP environment, where a party may not be in government but may find itself voting with the Government on some issues. Rather, the question of acceptability turns on the nature of the MP's interest and the manner in which he or she carries out the lobbying activity.

Relationship between MPs and Officials

- 3.28 The second principle of the *New Zealand Public Service Code of Conduct* expects that –

*Public servants should perform their official duties in an efficient and competent manner, and avoid behaviour which might effect their effectiveness.*¹⁹

*A potential area of conflict exists for public servants who may have to deal directly with Members of Parliament who have approached the department in a private capacity. It is important for both the Member of Parliament and the public servant that any such dealings be addressed, and seen to be addressed, on the basis of strict impartiality.*²⁰

- 3.29 The *Code* goes on to give a procedure to be followed if the public servant is in any doubt about the manner in which to respond to such an enquiry.

¹⁹ *New Zealand Public Service Code of Conduct*, September 2001, page 19.
²⁰ *Ibid*, page 23.

3.30 While there is no formalised code on MPs' approaches to officials, new MPs are informed in a briefing by the State Services Commissioner that –

*Public servants are under no obligation to provide special treatment to MPs – you [MPs] have the same information and access rights as other citizens. If a Member of Parliament has a request that goes beyond what a public servant would provide to a member of the public, that request must go through the Minister...to avoid both the appearance and the reality of a politicised Public Service [our emphasis].*²¹

3.31 In our view, it is important that the Public Service is not politicised, and that officials are not subjected to pressure by MPs by direct contacts on matters in which they have a personal interest (as opposed to those involving the interests of constituents). Further, there is an expectation that the relationship between MPs and officials will be professional and respectful.²²

3.32 We are supported in this view. Senior parliamentarians we spoke to stated that placing pressure on officials on a matter in which the MP has an interest beyond that of representation of constituent interests is inappropriate. One former Minister went so far as to say that if he had become aware of an MP placing pressure on officials in those circumstances, he would have cancelled the funding.

Summary

3.33 In summary, we understand the following standards of conduct to apply in New Zealand:

- An MP must not use, or be perceived to use, his or her position for any direct financial benefit, whether personally or for a near relative.
- In any dealings with Ministers or officials, an MP must always act transparently and disclose his or her professional or personal interests (including those of near relatives, friends, and business or other associates).
- It is acceptable for an MP to lobby Ministers for funding of programmes and projects in which they have a political or professional interest.
- Some degree of overlap is acceptable between an MP's non-financial personal interests and those of the MP's constituents or community.

²¹ Presentation to new members of Parliament, October 2002.

²² *New Zealand Public Service Code of Conduct*, September 2001, pages 20-21.

- An MP must not subject officials to pressure by direct contacts in matters in which the MP has a personal interest (whether financial or otherwise).
- An MP can never be seen to act solely in a private capacity when seeking financial or other benefits from Ministers or officials.

3.34 Our inquiry raises the question of whether a code of conduct should be implemented for MPs in respect of their dealings with officials and Ministers. This is a matter for the House to consider, but one which we will also raise in our next general report to Parliament.

The Nature and Extent of Mrs Awatere Huata’s Dealings with Ministers and Officials

3.35 In this section, we outline the nature of Mrs Awatere Huata’s involvement in funding proposals and applications in respect of organisations with which she was associated. We do so under two headings:

- the funding of the *Four Minute Reading Programme* (“the *Programme*”) by the Ministry of Education; and
- funding proposals and applications involving other organisations with which Mrs Awatere Huata was associated, either directly or through her husband.

3.36 In each case we identify the nature of the interest that Mrs Awatere Huata had in the funding proposal in question, and describe the nature and extent of her dealings with Ministers and officials.

Funding of the Four Minute Reading Programme by the Ministry of Education

Background

3.37 Literacy and the teaching of reading are well known to be the subject of intense professional debate and controversy, so that Mrs Awatere Huata is not alone in holding strong views about them. She developed the *Programme* when she practised as an educational psychologist in Auckland in the 1970s and 1980s.

3.38 The *Programme* was designed to improve the reading skills of children in low decile schools, taking four minutes a day in the classroom, followed by four minutes reading at home. Parents (or family members) are shown how to teach the child to read by a community worker, who liaises between the school and the home. The *Programme* as designed was delivered in English. Pipi has since devised a Maori version (*Wha Miniti*).

- 3.39 In the years before she became an MP, Mrs Awatere Huata made several approaches to Ministers and officials of the Ministry of Education promoting the *Programme*.

The Establishment of Pipi

- 3.40 During her first term as an MP in 1996, Mrs Awatere Huata began to lobby Ministers about the Government's funding priorities in literacy education. She told us that, at the same time, her mother-in-law (who was in charge of a kohanga reo in her local community) asked her whether the *Programme* could be revived as a means of encouraging Maori parents to read with their children and spend time on language development. She decided to "dust off" the *Programme* and seek Government funding for it to be upgraded, evaluated, and piloted.

- 3.41 Mrs Awatere Huata told us that the Leader and Deputy Leader of the ACT parliamentary party were supportive of her proposal, but advised her to set up a trust independent of herself, which could be a vehicle for funding and delivery of the *Programme*.

- 3.42 As a consequence, Mrs Awatere Huata took steps to settle, and vest ownership of the *Programme* and all her intellectual property in it, in a trust to be known as the Pipi Foundation (Pipi). She also vested her intellectual property in the Preschool Instruction for Parents Initiative (PIPI), a home-based programme for newborn to three-year-old children targeted at disadvantaged families from which the Foundation gets its name, in Pipi.²³

Mrs Awatere Huata's Actions in Establishing Pipi and Addressing Concerns about Conflicts of Interest

- 3.43 In early 1999, after Pipi had been formed but before a trust deed had been formally executed, the ACT party became aware of the extent of Mrs Awatere Huata's efforts to lobby Ministers for the *Programme* to be evaluated and redeveloped at public cost. Her parliamentary party leaders were supportive of the policy goal of improving Maori literacy, but remained concerned about the need to ensure that the arrangements were transparent and completely independent from her or members of her family. They repeatedly reiterated this need orally to Mrs Awatere Huata, and also did so in writing.

- 3.44 The Deputy Leader of the ACT party (Hon Ken Shirley) also spoke to the Minister of Education, Hon Dr Nick Smith, and conveyed an assurance to him that any risk of conflicts of interest involving Mrs Awatere Huata would be addressed. Mr Shirley also recalled asking the Minister to ensure that the Ministry properly monitored the potential for conflicts in the course of its oversight of the *Programme*. Dr Smith did not share that recollection, and added that he did not believe it to be part of the role of officials to monitor an MP's conflicts of interest.

²³ At a later stage *Wha Miniti* was also vested in Pipi.

- 3.45 The ACT party leadership was also alarmed by a letter which Mrs Awatere Huata wrote to the Treasurer, Rt Hon Sir William Birch, on 19 February 1999 which gave the impression that she would withhold her parliamentary vote in support of the then Government unless funding was made available.²⁴
- 3.46 A Trust Deed for Pipi was executed on 26 February 1999. Mrs Awatere Huata told us that she was not involved in preparing it. But she provided a copy to the ACT party, which obtained legal advice in relation to its contents. The advice raised a number of issues about the Deed, including:
- definition of the Trust's beneficiaries;
 - the potential for Mrs Awatere Huata to benefit personally, or be seen to be capable of doing so, from Pipi's activities;
 - Pipi's governance; and
 - the need for Pipi to engage professional advisers.
- 3.47 The legal advice was given to Mrs Awatere Huata in late-March 1999, with a request that the deficiencies be addressed. There is dispute about what undertakings Mrs Awatere Huata gave her colleagues about this. They understood that Mrs Awatere Huata had undertaken to address the deficiencies herself. She told us that she had no power to do so²⁵, and had merely undertaken to forward the advice to the trustees and ask them to ensure that she would be at arm's length, and that she had done so.
- 3.48 We note that a second, and different, Trust Deed for Pipi was executed on 4 May 1999. We were unable to determine the sequence of events that led to the second deed being executed, or whether Mrs Awatere Huata had any involvement at that point. However, it appears that it was the second Trust Deed that formed the basis for granting charitable status by the Registrar of Charitable Trusts and the Inland Revenue Department.

²⁴ This matter was later the subject of a privilege complaint to the Speaker of the House of Representatives, by the Deputy Leader of the ACT Party. The Speaker ruled on the matter on 19 February 2003, following receipt of a letter of explanation from Mrs Awatere Huata. He found that there was evidence that Mrs Awatere Huata had solicited funds for the *Programme* in return for her support for government legislation, but said that such conduct would only become a contempt if she had solicited a benefit for herself or persons close to herself. The Speaker could find no reasonable evidence of this, and so no question of privilege was involved (Hansard, Vol 606, pp 3551-2).

²⁵ We were surprised at this, as Mrs Awatere Huata was settlor under the first deed that was executed, and we would have expected her to have been able to raise these matters directly, in that context.

Mrs Awatere Huata's Actual Connections with Pipi

3.49 Mrs Awatere Huata was the Settlor, but has never been a Trustee of Pipi. The founding Trustees were people associated with her local community, known to her, but without "near relative" connections to her or her husband's family. However, three of the founding Trustees were also trustees of either Te Runanga o Ngai Tane or Te Huawhenua Trust Board (see page 21). Later, her mother-in-law became a signatory and Trustee of Pipi. In our view, the Trustees of Pipi were not all independent and at arm's length from Mrs Awatere Huata.

3.50 The question of whether Mrs Awatere Huata has ever received any personal financial benefit²⁶ from Pipi is a matter for the inquiry being carried out concurrently with our own, by the Serious Fraud Office. That aside, Mrs Awatere Huata has had various other forms of direct or indirect association with Pipi, including:

- by making the arrangements (at the outset) for a qualified educational psychologist who was a shareholder and former training manager for her company, IHI Communications and Consultancy Limited (but, in Mrs Awatere Huata's view, one of the only people with the necessary skills) to be engaged as project manager;
- by allowing IHI Communications and Consultancy Limited to be used as the vehicle for the project manager's fees to be invoiced to Pipi;
- by advocating for the release of the Government funding for the *Four Minute Reading Programme*, and participating in various meetings and communications with officials concerning the funding contracts and their implementation as a spokesperson for, and at the request of, the Pipi trustees;
- through using her experience to provide ongoing advice to and mentoring of trustees and workers in relation to the *Programme*;
- through Pipi using offices and facilities provided by Te Huawhenua Trust;
- through her mother-in-law becoming a trustee, and signatory to Pipi's bank account (through the action of the trustees);
- through her own personal involvement in the financial administration of Pipi (including preparing cheques for signature by designated signatories); and
- through Mr Huata holding office as Chairperson of Pipi from July 2002, following the previous incumbent's removal and prosecution for misappropriation of Pipi funds.

²⁶ The definition of personal financial benefit is covered in paragraph 3.18 on pages 29-30.

3.51 Mrs Awatere Huata told us that, when she settled Pipi, she did not envisage that the Trustees would need her help in dealing with the Ministry of Education. (See paragraph 3.56 below as to her reasons for providing that help.) She also pointed out to us that some of the associations that developed between her and Pipi resulted from the independent actions of the Trustees she had appointed. For example, she told us that the Trustees appointed her mother-in-law as a Trustee because of her mother-in-law's commitment to early childhood education in her community. Any conflict of interest arising from that action was not of Mrs Awatere Huata's own making.

Mrs Awatere Huata's Involvement in the Pipi Funding Contracts

3.52 Mrs Awatere Huata lobbied at least three Ministers when seeking funding for the *Four Minute Reading Programme* in the 1999 Budget. This happened in late-1998 and early-1999. We spoke to these (former) Ministers²⁷, who confirmed having received approaches.²⁸ Each knew of Mrs Awatere Huata's professional interest in literacy and in the *Programme*.

3.53 The then Government decided to make funding available through Vote Education. Details of the decision, and of the contract negotiations between the Ministry of Education and Pipi that followed it, are in Chapter 4.

3.54 Mrs Awatere Huata then became extensively involved in the contract negotiations. The Pipi trustees were also involved, but Mrs Awatere Huata took a lead role. She attended a meeting in Wellington with the trustees and members of the Ministry's Maori curriculum team on 14 July 1999. She was involved in another meeting with officials (on her own) on 3 August 1999, to discuss the research component of the contract.

3.55 She then provided a detailed memorandum to the Ministry on behalf of the trustees on 29 August 1999. The memorandum addressed a number of matters that were outstanding in the negotiations – including Pipi's management fee, the composition of the project steering committee, and the role of the project director. Ministry staff regarded Mrs Awatere Huata as “the designated spokesperson for the Trustees” at the time the negotiations were concluded.

3.56 We asked Mrs Awatere Huata why she had become involved in the negotiations to this extent, given the assurances she had made to her ACT Party colleagues that she would be at arm's length from Pipi. She told us that she became involved in these negotiations reluctantly, in response to

²⁷ Rt Hon Wyatt Creech, Minister of Education; Rt Hon Sir William Birch, Treasurer; and Hon Tau Henare, Minister of Maori Affairs and Associate Minister of Education.

²⁸ Including that received by Sir William Birch on 19 February 1999 – see paragraph 3.45 on page 36. Sir William told us that he regarded Mrs Awatere Huata's letter as unacceptable.

requests from the Trustees for her to do so, and with the object of maintaining the integrity of the *Programme* as she had designed it to be implemented. It appears that the trustees had asked her to facilitate on their behalf a clarification of the contract details and budget, and that the Ministry's contract manager had also used her as a contact point. Mrs Awatere Huata also told us that she was never a spokesperson for Pipi, but only advocated on its behalf in accordance with her role as an MP in advocating issues of relevance to her constituency.

- 3.57 The negotiations were protracted, and took several months to resolve. Officials told us that, during that period, Mrs Awatere Huata would often telephone asking why it was taking so long to release the funding for the *Programme*. The calls were made to staff in the Minister's office, and passed on to the Ministry officials who were working on the *Programme* and the contract negotiations.
- 3.58 The officials told us that they had not been aware of the background to the Cabinet decision to fund the *Four Minute Reading Programme* (refer Chapter 4). They thought, but did not know for certain, that the decision had been made at a political level following approaches by Mrs Awatere Huata. In accordance with their duty of political neutrality²⁹, it was their job to implement the Cabinet decision and ensure that appropriate contractual arrangements were put in place. In doing so, they were under the direction of the Minister of Education.
- 3.59 In this context, the approaches from Mrs Awatere Huata increased the pressure that the officials were under to complete the arrangements. The officials described the calls (which were almost daily at times) as persistent and frequent. At one point, the Hon Dr Nick Smith, then Minister of Education, was told (in a regular briefing with senior officials of the Ministry) that Mrs Awatere Huata was threatening officials that if they did not agree to the contractual terms she was proposing, she would be "knocking on [the Minister's] door".
- 3.60 Dr Smith told us that he instructed officials to "play it straight" in the contract negotiations, that Mrs Awatere Huata's status as an MP should have no impact on their approach, and that he would "back them up" if necessary. The matter was not raised with him again – either by officials or by Mrs Awatere Huata.
- 3.61 Mrs Awatere Huata acknowledged that she put officials under pressure, but maintained that it was proper and acceptable for her to do so in her capacity as an MP. We comment on this on pages 16-17. She told us that she made the calls because the trustees had complained to her that they had been unsuccessful in their attempts to find out what was going on, that she understood that the funds were to come from the previous year's appropriation and was keen to see them released, and that she was trying to find out what the delays were about.

²⁹ See comments on the *New Zealand Public Service Code of Conduct* in paragraphs 3.28-3.32 on pages 32-33.

- 3.62 Mrs Awatere Huata was also involved in discussions with the Ministry throughout the redevelopment and piloting of the *Programme*. In particular, there was an issue between Pipi and the Ministry over the arrangements for the *Programme* to be independently evaluated. This had been mentioned in the first “milestone report” prepared by the project manager. Mrs Awatere Huata represented Pipi in negotiations with the Ministry over the issue of independent evaluation. She told us of the number of discussions she had with officials.

Other Funding Arrangements

Mrs Awatere Huata’s Connection with Land and Economic Development Projects

- 3.63 Under our terms of reference, we followed all funding arrangements with organisations with which Mrs Awatere Huata had had an association since 1996. “Association” included having a near relative (such as her husband) in the position of director, shareholder, settlor, trustee, or beneficiary in the organisation.
- 3.64 Mrs Awatere Huata’s husband, Mr Wi Huata, is associated with a number of tribal and sub-tribal organisations of the Ngati Kahungunu iwi, which have engaged in various projects for social and land development – using commercial equity and various Government funding sources.
- 3.65 The most prominent of the organisations, for the purposes of this report, are Te Runanga o Ngai Tane (a hapu organisation) and Te Huawhenua Trust Board (Te Huawhenua Trust). Those organisations also have connections with Pipi, IHI Communications and Consultancy Limited, and a range of other companies.
- 3.66 Mr Huata has been the prime mover in the projects, and in obtaining funding for them. The organisations are structured in a way that means, in many instances, that there is little or no separation between governance and management functions. This allows Mr Huata to use the organisations, in effect, as vehicles to pursue his projects – albeit, he told us, with the backing and support of the Trustees. Mr Huata told us that the lack of separation between governance and management in many Maori community organisations is a result of inadequate grant funding which does not cover the costs of management and administration activities – which consequently have to be carried out by the Trustees at no charge.
- 3.67 It appeared to us from our review of departmental files that, in some cases, Mr Huata had received personal benefit from the public funding received – for example, through remuneration for services (as a consequence of funding agencies agreeing to fund “key worker” salaries) and subsidised overseas travel. However, both Mr Huata and Mrs Awatere Huata denied that Mr Huata ever received any remuneration as a result of public funding of the projects.

Mrs Awatere Huata's Involvement in the Funding and Contract Arrangements

3.68 Mrs Awatere Huata told us that she takes a keen interest in her husband's work, and has contributed to that work by:

- serving as chairperson of Te Huawhenua Trust, for a period prior to becoming an MP;
- lending or donating funds³⁰ to Te Huawhenua Trust through her communications company (IHI Communications and Consultancy Limited);
- holding office as a director of a wholly owned subsidiary of Te Huawhenua Trust, Totally Hawkes Bay Limited; and
- providing regular assistance to her husband in lobbying Ministers and dealing with government officials, in respect of funding applications.

3.69 The assistance referred to in the last bullet point has taken a number of forms. During our review of funding arrangements involving Te Puni Kokiri (see Chapters 5 and 6) and the Community Employment Group of the Department of Labour ("CEG", see Chapter 7), we came across references to Mrs Awatere Huata:

- applying to the Minister of Employment for funding on behalf of Te Huawhenua Trust (see paragraphs 3.77-3.81 on pages 43-44);
- being involved in meetings (together with Mr Huata) with Ministers and senior officials in respect of funding proposals;
- being directly involved in negotiation of funding contracts;
- making numerous telephone calls to officials in respect of various funding matters; and
- attending meetings with officials relating to the substantive content of projects.

3.70 Both Mr Huata and Mrs Awatere Huata were known personally to many of the officials concerned – especially those who were (or had been) based in Hawkes Bay. Mrs Awatere Huata told us that :

- she always acted in her personal capacity, rather than in her capacity as an MP;
- she played a support role to that of Mr Huata ("as wife of husband", as she put it to us), who was the primary initiator and negotiator; and

³⁰ The funds were accounted in the Trust's financial statements as a loan. Both Mrs Awatere Huata and Mr Huata told us that her contribution was, in fact, a donation.

- her role was no different from the support she had given her husband before she became an MP.
- 3.71 By and large, the officials to whom we spoke shared this understanding. They told us that negotiations with Mr Huata were difficult on occasions, and that Mrs Awatere Huata’s role was often to facilitate and conciliate. It was generally understood that she was acting in her personal capacity when doing so.
- 3.72 Nevertheless, we found occasional references in files to:
- communications to and from Mrs Awatere Huata at her parliamentary office; and
 - projects being described as those of “Mr Huata and Mrs Awatere Huata”.
- 3.73 Those references are not necessarily inconsistent with the understanding that Mr Huata was the prime mover and that Mrs Awatere Huata’s involvement was in a supportive, personal capacity. But they demonstrate clearly the potential for ambiguity and confusion as to the true nature of her role. They also suggest that officials may sometimes have associated Mrs Awatere Huata more directly with the projects than the support role would seem to suggest.

The Implications of Mrs Awatere Huata’s Conduct for Systems of Public Administration

- 3.74 This section contains our comments on Mrs Awatere Huata’s conduct in these funding arrangements, in the context of the standards outlined in the preceding section, and the Auditor-General’s interest and mandate in protecting the integrity of the system of public administration and the expenditure of public funds in respect of non-governmental organisations.
- 3.75 In making these comments we note that:
- MPs’ conduct in parliamentary proceedings is overseen by the House of Representatives. It is for the House to determine what is the appropriate standard of conduct in that context, and to enforce the standard through the procedures for handling contempt and breaches of privilege.
 - As stated earlier, the standards of conduct for MPs in their dealings with Ministers and officials outside the context of parliamentary proceedings are not articulated in any rules or codes of conduct. Our description of the standards is based on what we have been able to ascertain from our own inquiries and analogous sources of information (such as the *Cabinet Manual*).

- It is nevertheless essential, in our view, that the standards governing the contacts MPs have with Ministers and officials outside the context of parliamentary proceedings be clearly understood, particularly when access to public funds is involved.

Possibility of Financial Benefit

- 3.76 We were concerned about two possible instances of Mrs Awatere Huata using her position as an MP for pecuniary gain.

Wairoa Employment Initiative

- 3.77 The first instance concerned Mrs Awatere Huata's approach to the Minister of Employment on 19 December 1996 when she wrote to him, on House of Representatives letterhead, seeking funding from CEG on behalf of Te Huawhenua Trust for a horticultural employment initiative in Wairoa (see page 119). Her letter evidently followed an informal approach to another Minister.

- 3.78 The letter was not written in the context of a proceeding of Parliament. However, Mrs Awatere Huata's use of parliamentary letterhead meant that the Minister of Employment would have understood she was acting in her official capacity³¹. Although she identified herself as a former Chairperson of the Trust, we have two concerns:

- her failure to disclose in her letter to the Minister her husband's involvement in the Trust as chief executive officer at the time of the approach, and the loan or donation she had previously made to the Trust; and
- whether, at the time she approached the Minister, it could reasonably have been envisaged that the Trust would be funded for salary payments – given that a subsequent application made to CEG by Mr Huata on behalf of the Trust included funding for a person to be employed to assist with the development, and the CEG file indicated that Mr Huata was eventually employed in this role.

- 3.79 Mr Huata told us that Mrs Awatere Huata had only recently become an MP, and that he had asked her to write to the Minister in the belief (based on his observance of the involvement of previous local MPs in an organisation that had received public funding) that it was acceptable for an MP to make such an approach in these circumstances. He told us that he was sure the Minister was aware of his involvement, because a staff member of the Department of Labour was assigned to work with him on the Minister's instruction to bring the project to fruition.

³¹ See the Speaker's ruling dated 26 September 1991, quoted in paragraph 3.21 on pages 30-31.

3.80 The employment of Mr Huata as a key worker for the project would ordinarily have resulted in financial gain for Mrs Awatere Huata as his wife. However, we acknowledge that when Mrs Awatere Huata wrote her letter, the funding proposal might not have been sufficiently advanced for her to anticipate the possibility of financial gain. As stated above, both Mr Huata and Mrs Awatere Huata denied that Mr Huata received any direct remuneration from any projects as a result of public funding. The Huawhenua Trust Board's financial statements do not disclose any salary or wage payments to either Mr Huata or Mrs Awatere Huata, but their current account showed transactions involving advances to and from the Trust Board.

3.81 Mrs Awatere Huata acknowledged that she did not disclose the donation (as she described it), but emphasised that she was not a beneficiary of the Trust. She also told us that she was open, in her discussions with the Minister, about her husband's involvement in the Trust, and was certain that the Minister was aware of it

The *Four Minute Reading Programme*

3.82 The second case involves the approaches to the then Government for funding in respect of the *Programme*. We have concluded that, although no proceedings of Parliament were involved, Mrs Awatere Huata was acting in her official capacity as an MP when she approached Ministers about obtaining funding for the *Programme*.

3.83 Again, two issues arise. It has been alleged that Mrs Awatere Huata:

- stood to gain financially from Pipi at the time she approached Ministers for funding; and
- in fact gained financially at a later date.

3.84 In relation to the first question, Mrs Awatere Huata told us that at no time when Pipi was being established, and funding was being sought for the *Programme*, did she intend to control or influence the trust or benefit financially from its activities.

3.85 However, Mrs Awatere Huata's party colleagues had repeatedly asked her to *ensure* an arm's-length relationship. She was personally involved in the formation of Pipi and the selection of its Trustees. We do not think it was enough for her to rely on the Trustees to ensure that she was at arm's length from the Trust. We would have expected her to take active steps to obtain her own assurance.

3.86 In relation to the second question, as noted earlier, questions of whether Mrs Awatere Huata in fact benefited financially from Pipi funds are being considered by the Serious Fraud Office's investigation and are outside the scope of our inquiry. But if any such benefit were established, that would also bring into question whether Mrs Awatere Huata ought reasonably to

have known about the possibility of it being obtained at the time she sought the funding.

Interests Other Than Financial Interests

The Four Minute Reading Programme

- 3.87 Mrs Awatere Huata readily accepted that she used her position as an MP to lobby Ministers for funding for the *Programme*, and asserted that this was appropriate, because of her passionate interest in literacy, her belief in the programme she had developed, and the request of her whanau and Pipi to take the *Programme* forward.
- 3.88 The ACT Party seems to have recognised her passion, and supported her lobbying for funding in an area she was interested in and which would have advanced a positive outcome for the reading skills of young Maori, so long as:
- appropriate steps were taken to ensure transparency;
 - there was no apparent or actual possibility of private benefit or gain; and
 - the lobbying fell within the bounds of propriety and good judgement.
- 3.89 We note that (with the exception of her letter to the Treasurer on 19 February 1999 – see paragraph 3.45) the Ministers that Mrs Awatere Huata approached were comfortable that she acted properly by disclosing the nature of her *professional* interest in the *Programme*.
- 3.90 Nevertheless, we have some concerns about her conduct. Although Mrs Awatere Huata did take steps to reflect a distancing from the project through the Pipi Foundation mechanism, her actual involvement in or association with Pipi did not reflect such a distancing. Further, her persistent approaches to officials seeking release of the funds to Pipi, and complaining about the delay, were clearly unsettling to the officials. In our view the pressure she put on them went beyond the bounds of good judgement as an MP, albeit that she considered she was advocating for the Trust.
- 3.91 The officials' lack of knowledge of the circumstances of the Cabinet decision to fund the *Four Minute Reading Programme* had two effects:
- they felt they had to proceed with care (and this took time) to ensure that the funding was properly applied; and
 - they were unclear as to Mrs Awatere Huata's status in the matter (for example, whether she was acting as an MP or as an interested party in her personal capacity) and this appears to have increased the pressure they felt.

- 3.92 This point illustrates the importance of clarity in the dealings that an MP has with officials. While Mrs Awatere Huata told us that she was acting as an MP advocating for the Trust, the officials we spoke to thought she was acting as a representative of Pipi. In our view, there was an unacceptable amount of ambiguity in respect of her role.. That ambiguity may have arisen in part from the circumstances of the original funding decision (see paragraphs 4.21-4.28 on pages 52-53).
- 3.93 We also note in Chapter 4 that the officials were responsible for managing the risks that this posed for the contracting process. If they had concerns about Mrs Awatere Huata’s role, we would have expected them to have sought clarification from the Minister. However, we also consider that an MP has a responsibility to ensure that his or her own role is clearly understood.
- 3.94 In our view the pressure that Mrs Awatere Huata put on officials, combined with the lack of clarity as to her role, significantly undermined the integrity of the processes that had to be followed to give effect to the Cabinet decision to fund the *Programme*.

Other Funding Proposals

- 3.95 Mrs Awatere Huata also accepted that she had, on occasions, approached Ministers seeking funding for projects that Mr Huata was promoting, and that she had provided regular assistance to her husband in negotiating with officials over funding for his projects. She claimed that this was in a private capacity.
- 3.96 We acknowledge that Mrs Awatere Huata’s involvement was usually to support her husband, that the Ministers and officials involved understood this, and that they often found her involvement beneficial. However, we agree with the view consistently expressed to us by senior parliamentarians that an MP sets aside that “private capacity” when taking up public office, as far as their conduct in accessing public resources and lobbying to that effect is concerned. In any case, we found that there were instances where her involvement on her husband’s behalf was in her capacity as MP.
- 3.97 We are also concerned about the overall extent of Mrs Awatere Huata’s involvement in the various funding matters. Although we accept her contention that, on their own, none of her interventions to support her husband could be described as improper, and that Mrs Awatere Huata may have believed that there was good reason to intervene in the negotiations in each case, we were nevertheless surprised at the number of references to her involvement. The record shows a consistent pattern of involvement that goes beyond an involvement in a representative capacity. She clearly took a keen interest in Mr Huata’s projects and was equally keen for them to receive funding.

Concluding Comment

- 3.98 The evidence shows a considerable amount of involvement and influence by Mrs Awatere Huata, throughout the period of her tenure as an MP, in respect of a large number of funding proposals. The nature of her interests in those matters varied from one to another, and over time. Even now, the extent of some of her interests remains uncertain. But interests there were, and on any reading of the evidence they were not insubstantial.
- 3.99 In her interview with us, Mrs Awatere Huata accepted that she may not have acted wisely in some cases, and ought to have distanced herself. However she asserted that her conduct did not cross the boundary between what is and is not acceptable for an MP.
- 3.100 Mrs Awatere Huata also explained to us the pressures that can be placed on an MP in her situation, as a professional woman representing a small and impoverished community. In her view, these pressures needed to be taken into account when understanding her conduct.
- 3.101 We accept Mrs Awatere Huata's contention that, in examining each of her interventions, it is necessary to look not only at the capacity in which she became involved but also at the legitimacy of her involvement. But we do not agree with her that the cumulative picture is of no relevance.
- 3.102 Our concern, as stated at the outset of this chapter, is with the integrity of the systems of public expenditure. We have described the risks to the system of public administration of MPs being involved in this type of activity – in particular, arising from their greater access to Ministers and officials than ordinary citizens have, their ability to wield influence, and the potential for their interventions to politicise the public service.
- 3.103 We have reviewed a large number of transactions, involving five funding entities over a period of six years. The fact that Mrs Awatere Huata was an MP meant that the risks existed on each and every occasion on which she intervened. To us, the cumulative picture presented by the evidence shows a level of potential for undue influence and perceived distorting of systems and processes that was unacceptable.

Chapter 4

Funding Provided by the Ministry of Education

4.1 In this chapter we:

- describe the background to the funding by the Ministry of Education (the Ministry) of the *Four Minute Reading Programme* (the *Programme*);
- set out the funding arrangements involving the Ministry and the Pipi Foundation (Pipi), a trust of which Mrs Awatere Huata was the settlor and with which she is associated through her husband who is now Chairperson of the Board of Trustees; and
- review the processes by which the Ministry set up and monitored the contracts with Pipi.

Background

4.2 In 1998-99, the extent and nature of under-achievement in literacy was apparent and was a focus of Government policy. The Government had established a taskforce to recommend ways to improve literacy learning for all students, with a particular focus on Maori and Pasifika students.

4.3 To lift student achievement, it was recognised that new approaches would be required and that providers with links to whanau and community could make a useful contribution. The Government's literacy strategy aimed at improving teacher capability as well as engaging families in the learning and teaching process.

4.4 In the context of a re-formed coalition government seeking a range of innovative solutions, officials were often working within a capacity-building framework with community organisations offering new and different approaches. Within that framework, the Ministry has told us, the focus was on outcomes as well as compliance and accountability processes.

4.5 Mrs Awatere Huata has a considerable background in education and in literacy programmes in particular. She created a reading programme some 20-25 years ago. In the context of a Government that was seeking better literacy outcomes for Maori, she lobbied for the *Programme* with Ministers (this matter is covered in detail in Chapter 3). The Government saw the *Programme* as an initiative with the potential for achieving better outcomes for Maori.

- 4.6 On 16 December 1998, a funding proposal was discussed at a meeting of the Treasurer (Rt Hon Sir William Birch), Hon Tau Henare (Minister of Maori Affairs), and officials. The meeting –
- (a) *noted the revised budget proposals developed by the Maori disparities team; “Within Existing Baselines”;*
 - (b) *noted that the Treasurer and the Minister of Maori Affairs had met with the Minister of Education and that he had agreed to meet the proposed cost of ... the Four Minute Reading Programme from within the Education Allocation...*
- 4.7 On 12 April 1999, Cabinet (CAB (99) M10/5 (15)):
- agreed that the Four Minute Reading Programme be updated and implemented in three decile³² 1 or 2 schools from 1999/2000;*
- noted that the costs of \$0.253 million per annum (GST inclusive) will be met from the existing Reading and Maths Proposals Pool³³ appropriation in Vote: Education.*
- 4.8 Earlier in 1999, Mrs Awatere Huata had begun to vest her interest in the *Programme* in Pipi, completing the vesting in May 1999. Ministers were not aware of Pipi’s involvement when they made their decision to support the *Programme*. Pipi subsequently received public funding for the *Programme* through the Ministry, and also through Te Puni Kokiri and the Community Employment Group (CEG) of the Department of Labour.
- 4.9 Details of Mrs Awatere Huata’s involvement with Pipi are contained in Chapter 2 paragraph 2.8, and Chapter 3 paragraphs 3.40-3.62.
- 4.10 As a result of the Cabinet decision, the Ministry entered into a contract with Pipi in September 1999. The contract was renewed in 2000 and 2001.
- 4.11 By July 2002, the *Programme* was being considered for wider research and evaluation. At this point, allegations were made concerning the contract with Pipi, and the Ministry’s involvement with the *Programme* was suspended.

³² The decile rating of a school is determined by the Ministry and takes account of a number of factors – including the socio-economic status of the families of the pupils at the school. A low decile rating indicates a school with a significant number of disadvantaged children.

³³ The Pool is a contestable fund for schools or clusters of schools to apply for a maximum of two years’ funding to set up programmes to help students in years 1 to 8 (preschool to intermediate) who are making low progress in reading, writing and/or mathematics. The Pool was allocated \$10.4 million over three years starting in 1998-99 (\$1.4 million in 1998-99, \$3.9 million in 1999-2000, \$5.1 million in 2000-01), with \$5 million a year after that.

The Funding Arrangements

4.12 The Ministry paid Papi a total of \$766,192 by way of contracts over three years to fund a project to develop and evaluate the *Programme*, as follows:

Contract Date/ Renewal Date	Amount (GST inclusive)
6 September 1999	273,135
20 October 2000	240,157
30 July 2001	252,900
Total	\$766,192

Our Expectations for the Setting Up and Management of the Funding Arrangements

4.13 We had two expectations about the setting up and management of the funding for the *Programme*:

- First, we expected that the process leading up to the Cabinet decision would have been supported by the advice of officials about the *Programme*, and that (if necessary) officials would have given further advice during the implementation of the Cabinet decision.
- Secondly, we expected that the Ministry would have had policies and procedures, consistent with good practice at the time, to select a provider for the *Programme* and to negotiate and monitor a contract with the provider.

Advice to Ministers

4.14 Cabinet decisions to fund new initiatives can be made in different ways. Many decisions result from a policy-making process in which officials produce policy proposals for Ministers, based on the best evidence. Such a process enables prior consideration of the issues around the policy.

4.15 Alternatively, Parliamentary or other lobbying can bring matters before Ministers, resulting in decisions by Cabinet largely outside of the usual policy-making process. That is what happened in this case.

4.16 We appreciate that some funding decisions are made in this way, and that in such cases the opportunity for officials to give advice can be limited. However, our understanding of the usual process is that if a Minister is initially supportive of a particular proposal that emerges through lobbying, the Minister will seek advice from officials before the proposal progresses to Cabinet.

- 4.17 For their part, officials need an opportunity to advise the Minister:
- how the proposal fits in with current policy;
 - the effect that funding the proposal may have on other existing initiatives; and
 - what needs to be done to ensure that the Government's funding policies and procedures (for example, in relation to contestability in the selection of providers) are adhered to.
- 4.18 In this instance the Minister of Maori Affairs (Hon Tau Henare) was the key Ministerial proponent of the funding. He told us that he had been personally aware of the *Programme*, but also received policy advice from Te Puni Kokiri officials before the funding decision was made. Officials could not, however, provide any evidence of oral or written policy advice on the initiative, either in Te Puni Kokiri or the Ministry, before the decision was made.
- 4.19 In particular, neither the Ministry nor Te Puni Kokiri was able to provide evidence of advice on:
- the then status of the *Programme*, and how a decision to fund it would fit with other Government priorities at the time;
 - why the decision was made to allocate funds from the Reading and Maths Proposals Pool (the Pool);
 - how the amount of funding was arrived at by Cabinet; or
 - how any impact on the Pool itself was to be assessed.
- 4.20 However it appears that, because of the Cabinet decision, this advice was not sought.

Contracting Procedures

- 4.21 The then Curriculum Division of the Ministry had drawn up contracting procedures which detailed the standard procedures to be used for any contracting (the *Standard Procedures*). The May 1996 version was applicable at the time of the contract with Pipi.
- 4.22 The *Standard Procedures* covered:
- The proposal and selection processes – see paragraphs 4.25-4.38.
 - Setting up the contract – see paragraphs 4.39-4.88.

- Managing the contract, and reviewing and reporting – see paragraphs 4.89-4.132.

4.23 Overall, we found that the *Standard Procedures* complied with good practice at the time. Where they did not, we say so.

4.24 We used the *Standard Procedures* as they applied at the time to assess the Ministry’s setting up, management, and review of the Pipi contract – noting where circumstances surrounding the contract made adherence to the procedures problematic.

Non-use of the Standard Proposal and Selection Processes

4.25 The Cabinet decision referred to the *Programme* but not to any provider. The former Minister of Maori Affairs confirmed to us that, as far as he was concerned, the Government was funding the *Programme*, not any specific provider.

4.26 The *Standard Procedures* required the Ministry to appoint a contractor to deliver the *Programme* by means of either:

- advertising and calling for registrations of interest or proposals; or
- commissioning – an option to be used only in ‘special circumstances’.

4.27 The examples of ‘special circumstances’ given included:

- when someone with particular knowledge and skills was required to conduct a project;
- where there was urgency to get the project started, for high-priority projects;
- at the direction of Senior Manager Curriculum Implementation Division for critical work;
- for larger projects targeted at a specific area or group; and
- if the cost of the project was likely to be relatively low (below \$20,000).

4.28 This proposal and selection process could not be used in this case, because the combined effect of the Cabinet decision and Mrs Awatere Huata’s action of vesting “ownership” of the *Programme* in Pipi was that Pipi was the only possible provider.

The Cabinet Decision Took the Funding Arrangements Outside the Criteria Usually Used to Allocate Funding from the Funding Source

- 4.29 The Cabinet decision noted both the source of the funding (the Pool) and the amount of the funding (\$253,000). This effectively ‘ring-fenced’ the funding and, consequently, the criteria³⁴ for distribution of funding from the Pool were not applied.
- 4.31 When Ministry officials responsible for managing the Pool learned of the Cabinet decision, they were concerned that the *Programme* did not sit comfortably within the criteria established for the Pool, and that the amount of the funding per school seemed excessive compared with other proposals funded from the Pool. Ministry officials had to manage the wider expectations and perceptions of other schools applying for funding from the Pool.
- 4.33 Ministry officials were also concerned at the level of funding per school – with \$253,000 being allocated to a programme in 3 schools, the average cost per school would be \$84,000. This was far greater than what was normally made available to individual schools seeking funding from the Pool – although it did include funding for the redevelopment of the *Programme*.
- 4.32 The officials’ concerns are of particular interest to us, because of the concerns also expressed to us about Pipi’s capacity to carry out the *Programme*. We would have expected officials to have made the Ministers aware of their concerns. Ministry officials told us that their concerns were made known, but we were not given documentation of this advice.

Our Findings in Relation to the Proposal and Selection Processes

- 4.33 The way that the funding decision came about meant that there were no competing proposals to indicate what other providers could have provided, or whether Pipi would actually be able to deliver. The contract negotiation phase therefore needed to be heavily geared to establishing the services that would be provided for the funding determined by Cabinet, and the capability of the sole provider to deliver on these.
- 4.34 The Ministry had to set up the contract in a context of “capacity building” of Pipi, and had to rely on costings of similar services to determine whether it was receiving value for money.

³⁴ The *Report of the Literacy Taskforce* (1999) recommended the criteria for the distribution of funds from the Pool. The *Programme* did not meet the criteria in two critical respects: the funds were allocated to an organisation to provide services to selected schools, not the schools themselves; and the *Programme* could not be sustained after two years without ongoing government funding.

- 4.35 The contract also had to be prepared in the context of managing wider expectations and perceptions of other schools applying for funds from the specified source, the Pool.
- 4.36 In our view, these circumstances required the Ministry to give particular attention to the disadvantages of a “preferred supplier” approach³⁵. The Ministry would have needed to have monitored, very rigorously, Pipi’s capacity to deliver the services purchased, especially at the end of the first contract period, and to establish independent evaluation and value for money evaluation early in the process. We address the Ministry’s performance in these respects in the following paragraphs.

Conclusions

- 4.37 **The normal proposal and selection processes could not be applied in this case. Nevertheless, Ministry officials made a real effort to understand the *Programme* and the issues involved when giving effect to the Cabinet decision.**
- 4.38 **Provider capability and ‘value for money’ risks have to be carefully managed if Cabinet decisions prevent normal policies and procedures for considering and selecting providers from being applied.**

Setting Up the Contract

- 4.39 If the process for selecting a provider set out in the *Standard Procedures* could have been followed, tenders would have been called and each prospective provider would have included a detailed development plan in its tender. Proposals would have also included an outline of progressive steps which could have been used to identify milestone tasks.
- 4.40 The absence in this case of the information that would normally have been provided in this way made the task of preparing the contract with Pipi more difficult than would usually have been the case. Officials told us there was little information available about:
- how the \$253,000 had been arrived at;
 - the nature of the *Programme* and the services that would be delivered; and
 - why Pipi had to be contracted to deliver the services.

³⁵ The *Standard Procedures* list the disadvantages of commissioning, which include risks of allegations of bias, lack of transparency, not getting the best contractor, the contractor performing a substandard job because there is no competition for the proposal, and no testing of the market rate (hence a risk of the contractor charging excessively). [*Standard Procedures*, May 1996, page 10.]

4.41 As a result, there was some delay while Ministry officials set about determining the services and cost of those services. Officials contacted Te Puni Kokiri (whose officials had been present at the Ministerial discussion on 16 December 1998 and were therefore most likely to be able to provide advice on services and costings) to try to establish how the budgeted amount of \$253,000 had been assessed. Te Puni Kokiri officials responded that they:

... imagined that [the Ministry's] implementation people would have some idea about the cost of the various components, based on similar programmes.

4.42 To establish the services that Pipi was to provide for the funding, the Ministry had discussions with Pipi and undertook a costing exercise. Ministry officials and Pipi agreed a five-phase plan which acknowledged the 'developmental' approach to the *Programme*. This plan included:

- a consultation period to establish a comprehensive needs analysis framework for re-developing the *Programme*;
- determining and creating materials to support the *Programme*, and the identification of synergetic links with other reading initiatives;
- the identification and training of teachers and community workers;
- implementing the *Programme* and collecting baseline data; and
- an evaluation of the baseline data to report to the Ministry about the *Programme*'s effectiveness.

4.43 Milestones supported this plan, and details of the work required to meet each milestone were agreed.

4.44 The Ministry considered the project to be of a "capacity building" nature. It relied on the ability of Pipi's project director for quality information about the project as it developed.

The First Contract

4.45 The *Standard Procedures* included two contract templates. These formed the basis of the Pipi contract.

4.46 The first contract – an *Agreement for Curriculum Service* – was signed in September 1999. It was for a one-year term, during which the *Programme* was to be redeveloped and implemented over a 12-week period between February and April 2000. During the implementation period, the baseline data for the *Programme* was to be collected, evaluated, and collated to a final report to the Ministry.

- 4.47 The contract included:
- Primary terms and conditions – for example, the purpose of the contract, the obligations of both parties, payment terms, and monitoring, evaluation and review.
 - Schedule A, which set out the *Programme*, the re-development programme, and the work required to complete each milestone (the five-phase development plan and milestones discussed above).
 - Schedule B, which set out the budget and the amount that would be paid on the completion of each milestone.
 - Schedule C, which contained a draft invoice and disbursement schedule.

Negotiating Further Contracts

- 4.48 Negotiations took place between the Ministry and Pipi after the first contract term, which led to the renewal of the funding arrangement for another year. We describe this as “the second contract”, even though it took the form of a variation of the first contract.
- 4.49 The primary terms and conditions remained the same. New schedules to the contract updated the services to be provided, the milestones and work required to complete the milestones, and the budget and schedule of payments.
- 4.50 The tasks required to complete the milestones in the second contract were directed to:
- extending the *Programme* to two new schools;
 - monitoring and evaluating the new schools³⁶; and
 - ensuring that existing schools running the *Programme* were prepared for the independent evaluation to be carried out in terms 3 and 4 of the 2000 school year and the first two terms of the 2001 school year.
- 4.51 The independent evaluation was not, however, undertaken in 2000-01. Instead, a third contract was entered into for another year (from July 2001 to June 2002), which provided for the independent evaluation to be carried out in terms 3 and 4 of the 2001 school year and the first two terms of the 2002 school year.

³⁶ The evaluation eventually carried out did not involve the new schools – see paragraphs 4.121-4.129.

Our Findings in Relation to Setting Up the Contract

Governance and Accountability Arrangements

- 4.52 **In our view, the Ministry should have assessed the governance and accountability arrangements for Pipi³⁷. The *Standard Procedures* should be changed to incorporate this requirement.**
- 4.53 The *Standard Procedures* included requirements for assessing the capability of people responsible for delivering the contracted services. This did not, however, cover the governance and accountability arrangements.
- 4.54 The requirements in the *Standard Procedures* should be extended to include coverage of:
- The legal status of the organisation – including a review of its constituting documents to ascertain whether there is potential for beneficial interest/personal gain on the part of any Trustees.
 - The governance arrangements – including checking that there is adequate segregation between the Trustees and management. The contract provided for a project steering committee comprising the Pipi Foundation’s Chairperson, a Trustee, a project director and a Whanau Support Team member. Mrs Kathy Skipworth was both the Chairperson and the Whanau Support team member during the terms of the first two contracts, and the Project Director during the term of the third contract. She was also Pipi’s Treasurer throughout the three-year period.
 - The ongoing financial viability of the organisation. For instance, audited financial statements would have provided some evidence that the Trust’s governing body was exercising oversight and ensuring appropriate financial accountability to stakeholders in accordance with the Trust Deed.
 - Ensuring that any potential conflicts of interest are resolved.

Governance and Management Capability

- 4.55 **In our view, the Ministry needed to check the capacity and capabilities of the Pipi staff and whanau involved in the *Programme*. The *Standard Procedures* should be changed to include assessing the governance and management capability of the contractor to undertake the work contracted for.**

³⁷ This is an issue that we have noted in other arrangements with non-government organisations. We intend to address this issue in a wider review (see the Summary Report at page 17).

- 4.56 It was not until July 2002 – once the results of the independent evaluation had been received – that the Ministry was first made aware of concerns about the ability of Pipi to effectively manage and develop the *Programme* or undertake any change process necessary to respond to the recommendations from the evaluation reports. July 2002 was also about the time that allegations were made of possible misuse of funds by Pipi.
- 4.57 The Ministry wanted to support Pipi until the recommendations from both reports had been addressed, but proposed that interim contracts be put in place only *once the Pipi Whanau [had] the necessary capability to manage the requirements of the contract*. The Ministry agreed to support the salary of a Project Director provided that person had *the necessary qualifications, skills, and organisational ability to manage a project that is responsive to recommendations from both reports*.
- 4.58 The Ministry asked Pipi to –
- ...forward a detailed breakdown of expenditure from the existing contract – ie: what do schools get and how is it spent. This will enable us to start forecasting [their] budgets accordingly and take into account funds for more materials, training manuals etc (as recommended in the evaluation reports).*
- 4.59 We consider that these steps should have been undertaken in 1999 at the time the first contract was under negotiation.
- 4.60 We are satisfied that the capability of the Project Director was considered in setting up the contract. Details of the experience and qualifications of the original Project Director were on file. However, the file contained no details of Mrs Skipworth’s qualifications and experience.
- 4.61 We would have expected the Ministry to check the composition and qualifications of the members of the project steering committee to ensure that there was sufficient depth of experience and that different people filled the roles.
- 4.62 There was no “meeting of minds” on the part of the Ministry and Pipi as to the length and expected outcomes of the contract.
- The parties were confused over the length of the contract and the expected outcomes during the term of the contract.
 - Mrs Awatere Huata told us that the project was originally intended to be three years, but that the contract in 1999 was to redevelop the *Programme* and then pilot it, and, once it was going well, an independent evaluation was to be done within one year.
 - Ministry staff thought that the arrangement was for three years with annual variations/renewals, dependent on satisfactory performance and results by Pipi.

- The first contract itself, in Schedule A, contained a five-phase development plan which covered how the *Programme* was to be redeveloped and implemented over a 12-week period between February and April 2000. During the implementation period the baseline data of the *Programme* was to be collected, evaluated and collated for a final report to the Ministry in May 2000.

4.63 More detail of the services expected would have facilitated more effective monitoring. The schedule of services, or work required to complete the milestones, contained few expectations as to the quality, or specific targets, of the professional tasks required. In particular:

- Expected throughput in terms of numbers of children and families that would receive the service was not detailed. The Ministry did not see this as appropriate in a “developmental” initiative of this nature, and was satisfied that these were reported by the Project Director as the project developed.
- The level of funding, \$253,000, was set out in the Cabinet Minute, and Ministry officials set about establishing what services could be purchased for this amount. They based the reasonableness of the costs of the services on other developmental/research initiatives undertaken by the Ministry. Costing scenarios identified costs of school-based and whanau-based services, and Pipi management costs.

We would have expected the analysis of the costs of the project to be driven from the costs of the services required to meet each milestone, rather than the other way around. The developmental nature of the project meant that there were distinct phases – research, resources for the *Programme*, implementation of the *Programme*, and the evaluation of the *Programme* – which could have been costed with some accuracy.

- The Ministry did not ensure that the negotiated services were targeted at the originally intended groups, in that it extended the project to include schools that were not decile 1 or 2. Nor were the schools selected by an independent process. The Ministry did not revisit, with Cabinet, the criteria for selection of the schools. It believed that its flexibility in this respect was a positive aspect of a “developmental” project, and that reasonable criteria were used to select the schools.

4.64 Targeting of the *Programme* and selection of schools should have been more transparent, given the terms of the Cabinet decision and Mrs Awatere Huata’s interest in the *Programme*.

4.65 The selection of the schools was of interest to us insofar as it did or did not:

- comply with the Cabinet decision; and

- ensure that Mrs Awatere Huata’s interest in the *Programme* did not advantage her or a near relative. (This possibility of conflict of interest is addressed in Chapter 3.)

4.66 It was intended that the *Programme* would be updated and implemented in three decile 1 or 2 schools. The *Budget Initiative Proposal* that outlined the *Programme* for the Budget bid stated that the selected schools would be:

- identified by the Education Review Office as having high numbers of children who could not read;
- likely to have a high Maori student population; and

and that the *Programme* would be targeted at 7 to 9 year olds who could not read.

4.67 This information was not provided to those Ministry officials setting up the contracts.

4.68 The first contract stated that –

The programmes will be implemented in three selected decile one or two schools, and two pre-schools. Camberley Primary School and Te Kura Kaupapa Maori o Ngati Kahungunu ki Heretaunga in the Hawkes Bay region will be two of the three schools selected.

4.69 Pipi was to identify the other primary school and the two preschools and inform the Ministry. Pipi chose:

- Rutherford Primary School in West Auckland;
- Tauparanui Kohanga Reo which is situated at Bridge Pa near Hastings; and
- Taniwha Tumeke Kohanga Reo, also situated in the Hastings area.

4.70 Camberley Primary School was also replaced by Hastings Central School.

4.71 This final selection comprised what the Ministry believed at the time to be two decile 3 primary schools and one decile 1 Kura, and two decile 1 preschools.³⁸ The selection of two decile 3 primary schools was contrary to both the contract and the Cabinet decision (which required that the *Programme* be implemented in three decile 1 or 2 schools).

³⁸ The Ministry has since provided us with information that, of the six schools involved at some stage or other in the project, two were decile 1, two were decile 2, and two were decile 4.

- 4.72 The Ministry could provide no evidence to identify the reasons for these changes, or any recognition on the Ministry's part that there had in fact been a change from what the contract provided. However, the Ministry pointed out to us that the changes meant the *Programme* was applied in more schools and in a greater range of schools than Cabinet had envisaged.
- 4.73 We observed that two of the five schools and preschools selected were in the local community near Hastings in which Mrs Awatere Huata lived. Each had teachers and pupils who were members of the Huata family.
- 4.74 Mrs Awatere Huata told us that sites were selected on the basis of:
- the school or Kura asking for the *Programme*;
 - her mother-in-law's or sister-in-law's involvement;
 - the logistics of programme delivery; or
 - a decision by the programme supervisor, who was based in Auckland.
- 4.75 The Ministry confirmed that the last-mentioned was a reason for selection in the case of Rutherford.
- 4.76 The Ministry was aware of Mrs Awatere Huata's interest in the project, and the importance of possible public perceptions about the selection of schools in which members of her husband's whanau – as opposed (for example) to his hapu or iwi – were involved³⁹. Transparency in this regard would have been wise.
- 4.77 **The Ministry should have checked the costs of the services delivered for the preceding period before establishing the costs of the second contract.**
- 4.78 We expected the Ministry to have reviewed the costs of the services delivered – including, for example, materials and training manuals – for the preceding period before entering renewal negotiations. The Ministry provided us with no evidence of this having been done until July 2002, though the Ministry believes that these and other matters were considered in the renegotiation of the contract.
- 4.79 The contract needed to contain a clause to deal with any surpluses that arose as a result of the contracted services costing less than had actually been budgeted. The first contract contained the following clause –
- The Contractor acknowledges that it is receiving public funds appropriated for the purpose of providing the services and shall ensure that such funds are only used for the purposes for which the funds are appropriated.*

³⁹ See our discussion of this point generally in paragraph 3.18 on pages 29-30.

- 4.80 The same clause was included in the second contract, but was omitted from the third.
- 4.81 The intention of this clause appears to have been to ensure that all the funding paid to Pipi by the Ministry was to be spent on the delivery of the *Programme*. However, to be practicably enforceable, in our view the clause would have needed to make it explicit that any surplus funds would be returned to the Ministry.
- 4.82 The Ministry told us that no surplus was anticipated, which explains why there was no indication of what should happen to any funds that were surplus once the services had been delivered. The Ministry also said that the disbursement schedule provided by Pipi at the end of the first contract identified expenditure being 99.95% of that budgeted.
- 4.83 There is a wider public policy issue about what happens to surpluses remaining from publicly funded activities that needs to be explored. We expect to consider this in our wider study of funding of Non-government Organisations.⁴⁰
- 4.84 As part of the contract negotiation, both initially and at each renewal stage, the Ministry should have confirmed with Pipi what, if any, funding was being received from other funding agencies for the same or similar services being contracted by the Ministry.
- 4.85 We were surprised to find no mention, at the time that the third contract was negotiated, of the funding that had been provided independently by CEG (\$40,000 – see paragraph 7.48 on page 114) and Te Puni Kokiri (\$30,000 – see paragraph 5.48 on page 83) for marketing and delivery of the *Programme*.
- 4.86 **The intellectual property rights needed to be more clearly spelled out.**
- 4.87 The Ministry relied on the Copyright Act 1994, along with the relevant clauses of the negotiated contract, to safeguard its interest in any materials developed under the contracts with Pipi. In our view, the vesting by Mrs Awatere Huata of her intellectual property rights to the *Programme* in Pipi may well have complicated the situation, and put the Ministry's rights to the resource material developed in relation to the *Programme* at risk.

⁴⁰ See the Summary Report at pages 11-12.

Conclusion

4.88 While we acknowledge the difficulties faced by the Ministry, we believe that there were several ways in which the setting up of the contract could have been improved. The following prerequisites are applicable to all contracts:

- governance and accountability arrangements of the contractor should be assessed;
- governance and management capability (e.g. the project directors and the steering committee) of the contractor should be assessed;
- the length of the contract and the expected outcomes should be clear in the contract at the outset;
- the detail of services to be provided should be sufficient to provide a basis for effective monitoring;
- any deviation from a Cabinet decision should first be revisited with the Cabinet;
- targeting of services needs to be transparent, taking into account possible perceptions of conflict of interest;
- the actual costs of service delivery under a first contract should be checked before establishing the costs of a subsequent contract;
- contracts need to contain greater specificity on the treatment of surpluses;
- a check should be made that the contractor is not being paid other public funds for the same or similar services; and
- intellectual property rights are explicitly protected.

Contract Management

4.89 **The *Standard Procedures* detailed what Ministry officials were expected to do to manage contracts. The contract document itself also provided the Ministry with the right to receive and access information in order to monitor the contract.**

- 4.90 The *Standard Procedures* required Ministry officials to:
- evaluate whether milestone requirements had been met;
 - undertake monitoring visits, at least once and preferably twice, during the contract period to check that requirements were being met;
 - use their judgement in evaluating how closely a contractor needed to be monitored and how often visits were required, taking into consideration such things as –
 - previous experience with the Contractor, on this or other contracts;
 - the degree of satisfaction with milestone reports; and
 - the risks involved in the contract – such as high cost or new/different areas of development; and
 - to complete a monitoring worksheet immediately after the visit had been made and the contractor provided with feedback – preferably in writing.
- 4.91 The *Standard Procedures* also provided for a Review Committee⁴¹ for Curriculum Development projects to provide feedback on the progress of the contractor against the milestones. For small contracts, independent advice could be commissioned rather than establishing a Review Committee.
- 4.92 Each contract with Pipi also contained appropriate provisions to enable Ministry officials to monitor the implementation of the *Programme*. In particular, the contract/contract renewals:
- listed the work that the Ministry expected to be done to complete each milestone (generally a 3-month period);
 - required 3-monthly reporting of Pipi’s progress in meeting each milestone;
 - required detailed disbursement schedules to accompany the milestone reports, providing a full summary of payments made within the milestone period;
 - required Pipi to undertake formative evaluation of the *Programme* itself over the duration of the contract; and
 - provided for an annual review (to begin by 1 March and conclude by 30 June each year) to discuss Pipi’s performance in delivering the services and the financial statements prepared by Pipi.

⁴¹ The Committee usually comprised five teachers or professional educators who were independent of the development process of the contract itself.

- 4.93 The contracts also preserved the Ministry’s right to observe delivery of the *Programme*, review records and interview providers and participants, and evaluate the *Programme*.

Our Findings in Relation to Contract Management

- 4.94 In our view, the *Standard Procedures* used by the then Curriculum Division of the Ministry, together with the contract document, provided an effective means of monitoring the contract.

- 4.95 We believe the management of the contracts with Pipi could have been enhanced in the following respects:

Contract Review

- 4.96 No Review Committee was established, nor was there independent advice (consultant, or teacher educator commissioned) to oversee the implementation of the *Programme*. The Ministry explained that this contract was not of a size to have warranted a Review Committee. We are surprised, however, that there was not, at least, an independent consultant, because contract payments totalled \$776,192 over three years.

Site Visits

- 4.97 No milestone checking was done on the site visits. The *Standard Procedures* required that site visits should be made to check the extent to which milestone requirements are being met and that a monitoring worksheet should be completed immediately after the visit had been made and the contractor be provided with feedback.

- 4.98 Neither of the two site visits appeared to us to have been used for monitoring milestones. The Ministry disputes this view – it believes that project managers used these visits to check on outputs. The first visit did raise some “fundamental issues about the project” as a whole:

- The *Programme* team at the school did not know how or why the children had been selected.
- The reviewer was not able to find out what the *Programme* offered that matched the children’s specific needs – other than that they needed extra attention and plenty of opportunity to practice their reading, and the *Programme* seemed an expensive way to provide it.
- Some of the children were also involved in other reading programmes so it was hard to know which programme had what effect.
- Issues were also raised about whether the Projector Co-ordinator was employed by Special Education Services (SES) at the time, and whether Pipi was paying SES for her time.

- 4.99 While the requirement for milestone checking was apparently not undertaken on the site visits, we were pleased to see that “fundamental issues” had been identified and reported.

Follow-up of Issues

- 4.100 Identified issues were not followed up. Ministry officials told us that identified issues had been followed up in the research phase of the project. It was not able to provide evidence of its follow-up action, or supply us with evidence that they were addressed directly with the contractor.
- 4.101 We would have expected to find evidence that “fundamental issues” had been addressed.

On-site Monitoring and Support

- 4.102 There was some evidence that more on-site support would have been helpful, given that this was a capacity-building project. The Project Officer made the second visit in late-February/early-March 2001. The Ministry did not have a file note recording details of the visit, but we did note correspondence between the Project Officer and the Chairperson of Pipi that suggested that the visit was very positively received. However, there was also an indication of a prior feeling of abandonment on the part of Pipi.
- 4.103 The *Standard Procedures* required at least one visit per contract term. Only two site visits were undertaken over the 3 contract periods. The first was in April 2000 (9 months into the first contract). It looked at how the *Programme* was operating at Rutherford Primary School in Auckland. The second was undertaken in early 2001, to Hawkes Bay. We would have expected all the required site visits to have been undertaken.
- 4.104 The *Standard Procedures* required Ministry officials to use their judgement in evaluating how closely a contractor needed to be monitored and how often visits were required (see paragraph 4.90 on page 65).
- 4.105 The Ministry was unable to provide us with evidence that its staff had formed:
- a judgement on the capability risks associated with Pipi; and, therefore
 - a view on how closely the contractor needed to be monitored, and whether more than one visit per contract period was required.

Management of Conflict of Interest

- 4.106 We would have expected the Ministry to take steps to manage the risks around Mrs Awatere Huata’s close involvement in the *Programme* (to achieve better transparency in the selection of schools, for example).

Adequacy of Disbursement Details for Monitoring Purposes

4.107 The first contract provided for Pipi to –

Submit a Disbursements Schedule (as set out in Schedule C) showing how the amounts for Professional Fees and Costs, and Operational Costs, have been disbursed. The Disbursements Schedule included with each milestone report will provide a full summary of payments made within that milestone period.

4.108 Pipi provided the Ministry with summary schedules showing the total budget and actual professional fees, professional costs, and operational costs. The Ministry considered this was sufficient to monitor the costs of the *Programme*. We disagree. In our view, the Ministry should have enforced the contract requirement that a full summary of payments be included within each milestone report.

4.109 Full disclosure of disbursements was especially relevant to this particular contract, in that it was not subject to the normal contestable process to start with – so the costs of the services had not been “market tested”.

The Ministry’s Files Contained Evidence of Only One Annual Review.

4.110 Ministry officials provided us with one annual review report under the first contract. This was undertaken in late-June 2000, and was done before the Ministry received the Fourth Milestone report. The review was therefore done without having the benefit of the data and evaluative analysis contained in the Milestone Report. Ministry officials were not able to provide evidence that annual reviews were undertaken for the other two contracts.

Pipi Provided the Ministry With No Financial Statements

4.111 Therefore, the Ministry could not discuss at the annual review financial statements prepared by Pipi.

4.112 There is some debate as to the actual financial documentation required by the contracts. The Ministry said it considered that the disbursement schedule was the financial documentation required, and it therefore never requested financial statements. We disagree with this view – disbursement schedules are not the same as financial statements in accordance with the generally understood meaning of that term.

4.113 Furthermore, the disbursement schedules are not a sufficient basis for making decisions about the receipt of value for money in a contract. Also, audited financial statements would have provided evidence that Pipi’s governing body was exercising oversight and ensuring appropriate financial accountability to stakeholders in accordance with the Trust Deed.

- 4.114 In addition, when discussing the treatment of surpluses, the Ministry told us that “the financial reporting provisions of the contracts would have identified any expenditure levels below expectations which could have been addressed with the contractor”. As a minimum, the Ministry should request annual audited financial statements from all its contractors.

Conclusion

- 4.115 We acknowledge that the Ministry is addressing its contract management procedures. The following steps would improve those procedures:
- application of independent review procedures in large and/or sensitive contracts;
 - ensuring the required follow-up of any identified issues;
 - undertaking site visits, milestone checking and annual reviews as required by the *Standard Procedures*;
 - amending the *Standard Procedures* to address the level of support required in capacity-building projects;
 - amending the *Standard Procedures* to address both capability and conflict of interest risks; and
 - a requirement for the contractor to supply disbursement details and annual audited financial statements.

Evaluation Component of Contract Management

- 4.116 Both internal and external evaluation of the effectiveness of the *Programme* took place.

Internal Evaluation

- 4.117 As mentioned in paragraph 4.62, the five-phase plan in the first contract included collecting and evaluating base-line data during the implementation period for reporting back to the Ministry about the *Programme*'s effectiveness in May 2000. This evaluation was internal in that the data was collected and evaluated by Pipi staff. These internal evaluations should be an ongoing monitoring element of any programme to ensure that they are effective, but they are especially important when programmes are under development.

- 4.118 The results of the internal evaluation were included in the Fourth Milestone report to the Ministry in mid-2000. The evaluation involved Pipi staff collecting data from both school personnel and whanau (by way of survey), as well as 'before' and 'after' data related to the students' progress on the *Programme*.
- 4.119 Rutherford and Hastings Central schools collected pre- and post-*Programme* Burt assessment scores⁴² for both the children included in the *Programme*⁴³ as well as a group of children not included on the *Programme* as a control group. The results suggested major gains in Burt reading age scores at Rutherford but less marked gains at Hastings Central.
- 4.120 Surveys were completed as part of the evaluation at the end of the second contract in June 2001, but the pre- and post-*Programme* assessments of data gathered from students completing in the *Programme* were not finished because the independent evaluation was begun in the first week of the third term.

External Evaluation

- 4.121 Mrs Awatere Huata told us that the original project was to "dust off" the *Programme* and evaluate its possible usefulness as a new approach to overcoming achievement gaps for Maori. Independent evaluation was a critical component of the project, which would develop and evaluate the *Programme* over three years.
- 4.122 She told us that she felt so strongly about the need for evaluation that she believed the *Programme* shouldn't go ahead without it. The Ministry agreed with the view that there should be independent evaluation, but had difficulty in putting it in place earlier.
- 4.123 Pipi wanted an independent evaluation of the *Programme* to be carried out at the end of the first year. The first Milestone Report in October 1999 pointed out the need for an independent evaluation.
- 4.124 While evaluation was a feature of the first contract, *independent* evaluation was not provided for. However, the second contract provided for an independent evaluation of the *Programme* and *Wha Miniti* to be carried out in terms 3 and 4 of the 2000 school year and the first two terms of the 2001 school year.

⁴² The Burt test consists of 110 words graded in approximate order of difficulty and is given individually. The child is required to read the words at their own speed and continues until they have attempted and failed 10 consecutive words. It is a commonly used reading assessment tool in New Zealand schools and the schools opted to use it for students on the *Programme*.

⁴³ Rutherford had 'before' and 'after' data for 11 students and Hastings Central for 9 students.

- 4.125 Pipi was to ensure that the *Programme* was operating in the schools during this period and was to carry out activities agreed with the evaluators to ensure that the independent evaluation could be successfully carried out. The tasks required to complete the milestones focused on extending the *Programme* to two new schools⁴⁴, monitoring and evaluating the new schools and ensuring that existing schools running the *Programme* were prepared for the independent evaluation.
- 4.126 The independent evaluation was not, however, undertaken in 2000-01. The Ministry told us that the arrangements to carry out the research took longer than anticipated. They claimed that, as reputable researchers in the field of Maori and Maori-medium education were required, it was unreasonable to expect that this could be achieved in one year. Mrs Awatere Huata, however, told us that research capability was available, but that the Ministry had still failed to allocate the resource. The third contract provided for the independent evaluation to be carried out in terms 3 and 4 of the 2001 school year and the first two terms of the 2002 school year.
- 4.127 This evaluation was completed in June 2002.
- 4.128 There remains some debate over the effectiveness of the *Programme*. The evaluation of the English version was positive about the gains made by students participating in the *Programme*, but recommended that significant changes be made. However, a peer review of this evaluation criticised the methodology and (hence) the findings.
- 4.129 The evaluation of the Maori version was less positive about the soundness of the *Programme*. Mrs Awatere Huata told us that she did not accept the findings, because:
- the data was contaminated by the fact that students had already made the bulk of their progress;
 - the methodology used was inappropriate; and
 - the report was monocultural, missed the point of *Wha Miniti*, and was produced by a person who was not a native speaker of Te Reo.

Our findings in relation to the evaluation process

- 4.130 We were pleased to note that internal evaluation was part of the process from the start. However, we believe that the independent external evaluation also needed to be undertaken from the outset.

⁴⁴ Mrs Awatere Huata told us that valid evaluation required baseline and post-treatment measurement on the students, and that this couldn't be done without taking a fresh group of students. However, we understand that the evaluation eventually undertaken did not involve the new schools.

- 4.131 **The *Programme* takes place over a 12-week period. While acknowledging the capacity-building and setting-up aspects of the *Programme*, the principal purpose of the project was to evaluate the *Programme* for possible wider usage. We believe it would have been appropriate to evaluate it independently from the baseline and through the *Programme* application phases (that is, in the first contract period).**
- 4.132 **Nevertheless we acknowledge the efforts which the Ministry put into making appropriate arrangements for independent research-based evaluation, especially in the difficult area of Maori and Maori-medium education.**

Chapter 5

Funding Provided by the Ministry of Maori Development: Te Puni Kokiri (TPK)

5.1 In this chapter we:

- set out the funding arrangements involving TPK and organisations with which Mrs Awatere Huata is associated;
- describe the role and functions of TPK in funding community organisations and projects; and
- in respect of capacity building funding arrangements, review the processes by which TPK considered funding applications, developed letters of agreement and monitored their terms.

5.2 In Chapter 6 (starting on page 87) we examine two particular contracts between TPK and organisations with which Mrs Awatere Huata was associated.

The Funding Arrangements

5.3 TPK paid a total of \$544,062 to organisations associated with Mrs Awatere Huata as follows.

Organisation	Contract No.	Date	Amount (GST inclusive)
Te Huawhenua Trust Board	737	24/12/1996	20,250
Te Huawhenua Trust Board	750	30/4/1997	13,500
Te Runanga o Ngai Tane	1296	1/3/1999	120,000
Te Runanga o Ngai Tane	1909/1910	20/9/2000	45,000
Te Huawhenua Trust Board	2376	20/2/2001	47,500
Aotearoa Horticulture Limited	3522	5/6/2001	2,812
Pipi Foundation Trust	3778	14/8/2001	30,000
Te Huawhenua Trust Board	3932	9/10/2001	112,500
Young Designers Scholarship Trust	219	17/4/2002	10,000
Te Huawhenua Trust Board	5254	29/6/2002	30,000
Te Huawhenua Trust Board	5312	30/7/2002	112,500
		Total	\$544,062

TPK's Responsibilities

5.4 TPK was established in 1991. Under section 5(1) of the Ministry of Maori Development Act 1991, its responsibilities include –

(a) Promoting increases in the levels of achievement attained by Maori with respect to—

(i) Education:

(ii) Training and employment:

(iii) Health:

(iv) Economic resource development:

(b) Monitoring, and liaising with, each department and agency that provides or has a responsibility to provide services to or for Maori for the purpose of ensuring the adequacy of those services.

5.5 Under section 5(2) of the Ministry of Maori Development Act, the responsibilities under section 5(1) *are in addition to the other responsibilities conferred on the Ministry from time to time.*

TPK's Role Under the 1996-1999 Government

5.6 TPK's role under the Government that held office between 1996 and 1999 was confined, in broad terms, to:

- the purchase of “analysis and policy advice” under seven output classes; and
- the “facilitation and brokerage of services between Maori and local representatives of public and private service agencies”.

Analysis and Policy Advice

5.7 Most of the money appropriated for analysis and policy advice was spent internally on staff salaries. Some money was set aside in internal budgets for managers to purchase services externally (such as from locally based consultants and community organisations). Often, external purchase would be used to test and explore policy options in a practical, as opposed to theoretical, setting.

5.8 A contingency fund (an internal funding mechanism) existed for unbudgeted projects or cases where internal budgets were insufficient to meet the costs of approved work. The fund was administered on a partly contestable basis by the Budget Review Committee (an internal committee of senior managers).

- 5.9 An internal policy required consultancy work costing more than \$20,000 to be put out to tender. The former Chief Executive of TPK, Dr Ngatata Love, told us that the policy was not set in concrete, and that, where it appeared to TPK that there was only one practical way of achieving a particular objective, a decision could be taken not to undertake a tender.

Facilitation and Brokerage

- 5.10 TPK exercised its “facilitation and brokerage” role largely through its regional offices – again entailing mainly internal expenditure.
- 5.11 The role did not extend to making grants to local organisations to pursue development projects – sources for which included the Community Employment Group of the Department of Labour (“CEG” – see Chapter 7) and Poutama Trust (see Chapter 8). Nevertheless, we were told that TPK took an increasingly active approach in the community over this period. This reflected a desire of the then Minister of Maori Affairs, Hon Tau Henare, to be seen to give active support to community initiatives.

TPK’s Role Since 2000 – Capacity Building

- 5.12 The introduction of funding for capacity building grants in the 2000 Budget gave TPK a source for direct grants to community agencies. The appropriations for capacity building include:
- *Capacity Assessment – To enable whanau, hapu, iwi, Maori organisations and Maori communities to undertake assessments of their current capacity and development needs;*
 - *Building Capacity in Maori Communities – To enable Maori to develop their own capacity, and build strategies, systems, structures and skills to enable them to control their own development;*
 - *Direct Resourcing of Local Level Solutions – To fund service provision to support the achievement of hapu and urban Maori solutions; and*
 - *Local Level Solutions/Development – To further Maori development by funding selected projects which have been designed by whanau, hapu, iwi, Maori communities and organisations.*
- 5.13 TPK also continues to have the role of policy advice and facilitation referred to in paragraphs 5.6-5.10.

The Capacity Building Programme

- 5.14 The purpose of the Capacity Building Programme is to strengthen the ability of individuals, whanau, hapu, iwi, Maori organisations and Maori communities to build the strategies, systems, structures and skills that they need to control their own development and achieve their own objectives.
- 5.15 TPK works with the applicants based on their current level of development and at their own pace. TPK's assistance is often "stair-cased" from assessing the capacity of the group to build its capabilities, to group 'energising', to generating ideas, through to planning and building on those areas ultimately to self-sufficiency and independence.
- 5.16 The capacity building funding pool enables TPK to react to community initiatives rather than commission projects on a contestable basis.

The Operational Guidelines

- 5.17 TPK has guidelines entitled *Capacity Building Operational Guidelines*, which were prepared and implemented in conjunction with the introduction of the Capacity Building Programme in 2000.
- 5.18 The operational guidelines are comprehensive, and cover in detail policy and procedural matters for:
- assessing applications;
 - developing and approving letters of agreement;
 - managing and monitoring project progress;
 - authorising payment and other financial processes; and
 - evaluation/audit/post-project review.

The Process By Which the Funding Decisions Were Made

Assessing the Applications

- 5.19 We examined how TPK dealt with the application for each of the individual capacity building funding arrangements entered into with the entities associated with Mrs Awatere Huata under the Capacity Building Programme. We concentrated on whether:
- the operational guidelines had been complied with; and
 - the adequacy of documentation of the decision-making process.

Did the Applications Approved Meet the Funding Criteria?

- 5.20 In all cases, we were satisfied that the applications approved were consistent with the criteria for capacity building funding. The projects funded were ostensibly designed to assist Maori groups to develop local opportunities to contribute to their own social, cultural and economic development.

Was the Assessment Process Sound?

- 5.21 The assessment process was generally poor, particularly in the following areas.

Governance and Accountability

- 5.22 The assessment of the governance and accountability arrangements in place in relation to the entities applying for funding was of poor quality.
- 5.23 The operational guidelines provide detailed guidance on the type of matters to be considered when assessing an entity's governance and accountability –

Kaiwhakarite⁴⁵ will also assess the groups administration and governance systems. Administration and financial control in projects can often be very challenging for groups, due to insecurity of position and vulnerability of tenure.

Governance of the group is the organisational structure, and the accountabilities within the structure. Regular Board meetings and minutes from Board meetings, indicates that there is responsibility within the group.

Kaiwhakarite will ensure that the application identifies:

- *what role(s) the Board of the Trust has in the project, and if the Board approves the project;*
- *what management positions there are on the project team; and*
- *the Treasurer/Accountant is aware of the project.”*

- 5.24 The guidelines then go on to set out essential information that contributes to quality assurance.

A requirement of funding is that the group is a legal entity. The types of entity include, Incorporated Societies, Charitable Trusts and Companies. These can be independently verified by reference to

⁴⁵ A relationship manager/field worker.

the Companies Register. This ensures independent accountability for the funds provided.

The legal status of an organisation is verified by:

- *Copy of Trust Deed (if not already on file)*
- *Copy of Certificate of Incorporation or equivalent (if not already on file).*

Note: A grant can be paid to a registered charitable trust (registered with the Companies Act [sic]); Maori Marae, School, Church or Local Authority).

Audited accounts need to be requested with an application.

- 5.25 We would have expected a properly documented assessment of the organisation's governance and accountability arrangements to have been completed in each case.
- 5.26 We would also have expected that the Trust Deeds for each of the Charitable Trusts would have been subject to formal review and legal advice sought when necessary.
- 5.27 The information provided to us by TPK contained no formally documented assessment of the governance and accountability arrangements for Te Huawhenua Trust Board, Te Runanga o Ngai Tane, or Pipi Foundation charitable trusts.

Audited Financial Statements

- 5.28 In some cases, the documentation indicated that financial statements and constitutions of funded organisations were on file at TPK's relevant regional office or head office.
- 5.29 However, we found that at no stage did TPK obtain audited financial statements for any of the Trusts it funded. Again, this was in contravention of the operational guidelines. The files contained unaudited financial statements for Te Huawhenua Trust Board for the 1999 and 2000 years, and copies of unsigned Trust Deeds for Te Huawhenua Trust Board and Te Runanga o Ngai Tane. Mr Huata told us that audited financial statements were available, but we have yet to see them despite requesting them from Mr Huata on a number of occasions.
- 5.30 We consider that audited financial statements would have provided some evidence that the Trusts' governing bodies were exercising oversight and ensuring appropriate financial accountability to stakeholders in accordance with the Trust Deeds.

Documentation of the Decision-making

- 5.31 The operational guidelines state that –
- *All decisions, whether to support a project or refuse support are subject to review. It is important therefore that Regional Directors and Kaiwhakarite fully understand the criteria for making decisions, and can explain and justify their decisions.*
 - *On occasions applications will be received directly in National office, particularly from national Maori organisations. All other applications will be referred back to the regional offices.*
- 5.32 TPK established a national assessment team to review all capacity building grant applications for consistency purposes. Standard assessments of the applications were prepared by the regional offices and forwarded to the national assessment team for review and approval.
- 5.33 When this process was followed, documentation of the decision-making was of a good standard. However, we saw a number of instances where contracts were negotiated directly by TPK's head office (i.e. 3932, 5254, and 5312). In these instances, there was no documentation to explain why the standard capacity building approval process as outlined in the operational guidelines was not followed.

Potential for Personal Benefit

- 5.34 The operational guidelines state that, when processing applications, the following should be checked –
- *the application declaration has been signed by the person/Trustee who has signing authority for the group. (This is usually the Chairman/CEO/Treasurer.)*
 - *the signatory will not benefit directly from the funding. For example, the recipient of a salary funded by the application of the funded recipient is not in an existing management position.*
- 5.35 TPK does not appear to have raised any questions about the need for segregation of governance and management, accountability of the Board of Trustees and those employed by the Trusts on contract to complete the projects, or the potential for personal benefit to Mr Huata or his family interests. Given the issues that had previously been raised in relation to contract 1296 with Te Runanga o Ngai Tane (see Chapter 6, page 87), and the specific requirements outlined in the operational guidelines, we find this extraordinary.

5.36 Particular matters that, in our view, should have resulted in further enquiry or investigation by TPK are:

- The application dated 7 November 2000, that resulted in contract 2376 being entered into, was signed “pp Donna Awatere Huata” – even though she was not a representative of the Board of Trustees or a member of the senior management of Te Huawhenua Trust Board at this time. Further, the person who was to be the project co-ordinator was Mr Huata.
- The negotiations for contracts 3932, 5312 and 5254 were directly with Mr Huata – although some negotiation was conducted with Mrs Awatere Huata on Mr Huata’s behalf. It appears that, while the contracts were to be with Te Huawhenua Trust Board, no other Trustees were represented in the discussions/negotiations, although another Trustee did sign the letter of agreement for contracts 3932 and 5254. Mr Huata was to be employed as the special adviser or was to co-ordinate the deliverables for each of these contracts.
- Over the period under review, Mr Huata variously referred to himself as Chairman, Chief Executive, and (in some instances) key-worker/project co-ordinator of the Trusts.

Good Practice

5.37 We believe that good practice would have required TPK, as a minimum, to:

- obtain a copy of the signed Trust Deed for each Trust and a current list of Trustees and beneficiaries;
- ensure that each Trust was a registered Charitable Trust and had charitable status for tax purposes;
- ascertain the governance arrangements for each Trust – including segregation between the Trustees and management, regularity of Trustees’ meetings, and financial and non-financial reporting on the Trust’s business activities (including the capacity building projects funded by TPK);
- obtain a copy of each Trust’s audited financial statements – particularly where the Trust Deed required these to be completed;
- review each Trust Deed for any matters requiring either further follow-up with the Trustees or legal advice (e.g. identification of beneficiaries, clauses relating to distribution of assets on winding up, and the employment of Trustees by the Trust);

- specifically review the potential for beneficial interest/personal gain on the part of the Trustees; and
- ensure that any potential conflict of interest issues were addressed.

5.38 As detailed in paragraphs 5.17-5.18, the operational guidelines cover a number of these aspects.

Conclusion

5.39 In our view, if the steps identified in paragraph 5.37 had been taken at the appropriate time, many of the funding arrangements between TPK and the entities associated with Mrs Awatere Huata would not have proceeded past the application assessment stage without further information being provided by the organisation concerned.

Preparation and Approval of Letters of Agreement

5.40 Once the national executive team (or the General Manager Regions/Operations) had provided approval for the grant to proceed, a letter of agreement was prepared. The letters of agreement were then passed to TPK's Legal Section for review.

Legal Section Review

5.41 We noted cases where the Legal Section had raised issues in relation to whether the capacity building assessment processes had been followed. Again, we were surprised that there was only limited documentation of how these issues had been resolved prior to the letter of agreement being finalised.

Specification of Grant Instalments

5.42 The operational guidelines specify a funding payment formula as follows:

Approved funding	Formula
Up to \$2,000	One advance payment or 80% in advance 20% progress payment or on completion of project
\$2,000–\$40,000	80% in advance 20% progress payment or on completion of project
\$40,000–\$70,000	50% in advance 50% progress payment or on completion of project
Over \$70,000	Payment in four instalments

5.43 It is accepted good practice to align instalment payments with expected deliverables. We understand that the operational guidelines provide for substantial advance payments to simplify administration and allow for the capacity-building nature of the funding.

5.44 However, we were surprised that a service-based contract (3932) for a “specialist adviser” allowed for a 50% advance payment (see paragraph 6.106 on page 102). We were also surprised that contract 5254 was signed on 28 June 2002 – the same day full payment was due. Mr Huata told us that the contract paperwork was simply catching up with work already undertaken.

Double-funding

5.45 In the contract documentation, the standard application form requires the entity applying for funding to include details of the total budgeted project cost and sources of funding, including:

- contributions from the entity itself (in cash or ‘in kind’);
- contributions from other sources; and
- contribution sought from CEG.

5.46 Some of the applications from organisations associated with Mrs Awatere Huata identified that funding was to be provided from other sources, including other public entities. That information ought to have alerted TPK to take follow-up action with those other agencies.

- 5.47 The operational guidelines do not specifically state how to assess the reasonableness of the total budgeted project cost and its funding sources; nor specifically mention how to address the risk that the same or similar work might be funded by another funding agency.
- 5.48 In the case of contract 3778 with the Pipi Foundation Trust, the application identified substantial existing funding from the Ministry of Education (see paragraph 4.85 at page 63). We found it extraordinary that no contact was made with the Ministry to ascertain the nature of its funding and ensure that there was no double-funding.

Good Practice

- 5.49 In our view, good practice would require:
- documentation of the reasons for any non-compliance with the operational guidelines;
 - alignment as far as practicable of the timing of instalment payments to the timing of deliverables;
 - documentation of the steps followed to review the non-TPK elements of project funding, including –
 - the reasonableness assessment of the organisation’s own contribution;
 - the steps taken to confirm validity of the funding from other sources (i.e. Has an application been made to the other funding entity/entities?); and
 - the steps taken to confirm the nature and scope of the work to be funded from other sources (i.e. Is there any potential for double-funding and how has this been resolved?).

Conclusion

- 5.50 In our view, the issues identified by the Legal Section’s review and any potential for double-funding should have been followed up and satisfactorily resolved before proceeding with the letters of agreement.

Contract Management and Monitoring

- 5.51 Day-to-day contract management and monitoring is primarily the responsibility of the Kaiwhakarite and Regional Director. They regularly communicate with and/or visit the entities being funded to monitor progress against the deliverables and milestones in the letter of agreement. The results of this monitoring may not be formally documented.

- 5.52 The entity being funded provides progress reports and Kaiwhakarite and the Regional Director are expected to comment on them. National Office will not action payment of an instalment without sign-off of the progress report by the Regional Director.
- 5.53 The TPK documentation showed that project progress reports from the entities were being received and that the Kaiwhakarite and Regional Director's assessments of progress were being completed. However, it was evident in many cases that there were significant delays in project milestones and reporting from the Trusts.
- 5.54 There was limited documentary evidence of the ongoing day-to-day monitoring and entity visits. Discussion with the Regional Director confirmed that this is central to that role and was taking place.

Expenditure Reports

- 5.55 TPK does not require funded organisations to provide expenditure reports on completion of the project.
- 5.56 The standard letter of agreement states the organisation will –
- provide TPK with access to records and documentation (including financial records) kept by your organisation in relation to this project.*
- 5.57 Based on our discussion with TPK management, this clause was never utilised in relation to any of the organisations associated with Mrs Awatere Huata.
- 5.58 In our view, good practice would require that expenditure reports be provided at the completion of each project. These reports should then be reviewed against the budget and:
- any variances should be followed up with the entity; and
 - sufficient verification of the expenditure to supporting documentation should be done to ensure that the report is valid.

Contractual Terms and Conditions

- 5.59 The letters of agreement all included the following clause –
- To ensure adequate levels of accountability for the use of public funds, the amount you receive and expenditure of that amount must be shown separately in your organisation's accounts.*

5.60 TPK was unable to provide any evidence that this condition was monitored.

5.61 We would also have expected that – given the large advance components of the grant funding – the letters of agreement would have also required the organisations to separately account for any interest earned on these funds.

Good Practice

5.62 In our view, good practice requires:

- properly documenting all monitoring;
- ensuring that expenditure reports are prepared at the completion of each project and that the reports are subject to sufficient review to ensure their validity; and
- monitoring of compliance with contractual terms and conditions.

Conclusion

5.63 The effectiveness of TPK's contract management and monitoring was poor. While regular contact by the Kaiwhakarite and Regional Managers provided a good base, the documentation of the monitoring carried out and scrutiny of expenditure needed improvement.

Chapter 6

Te Puni Kokiri – Case Studies

- 6.1 In this chapter, we examine two particular contracts:
- a contract with Te Runanga o Ngai Tane in 1999, relating to the development of a horticulture strategy for under-developed Maori land in the Wairoa district (contract 1296 – see paragraphs 6.3-6.89); and
 - a capacity-building grant to Te Huawhenua Trust Board in 2001, to secure agency funding to establish a national Maori producer network (contract 3932 – see paragraphs 6.90-6.110).
- 6.2 We examined these contracts because of concerns that we had over the process used by TPK to assess and, in the case of contract 1296, to monitor, the projects. In both cases, our particular concern was whether TPK adequately considered the amount of funds it committed to the projects.

Contract 1296: Horticultural Development in Wairoa

- 6.3 In 1998, Mr Huata approached TPK and the Minister of Maori Affairs, seeking funding for a new programme to investigate horticultural development in the Wairoa district.
- 6.4 The approach followed some earlier work that had been done by Te Huawhenua Trust Board in 1997, under contract 737 (see Appendix 2, page 142). That work had involved exploring the potential for horticulture to improve land productivity and alleviate unemployment in the Wairoa district. It had resulted in a 10-page proposal entitled *Orcharding Industry Project for Wairoa*, in February 1997.
- 6.5 The further approach in 1998 came on behalf of Te Runanga o Ngai Tane (the Runanga). The reason for the change in vehicle was that the Runanga had a wider tribal mandate than Te Huawhenua Trust Board. The amount of funding sought was \$320,000 (GST-exclusive).
- 6.6 Mr Huata and Mrs Awatere Huata recalled a meeting with the then Chief Executive of TPK, Dr Ngatata Love, about this project. Dr Love did not recall any such specific meeting, but said that he recalled meeting with them generally from time to time. He knew both Mr Huata and Mrs Awatere Huata personally.
- 6.7 Mr Huata and Mrs Awatere Huata were also known personally to the then Minister of Maori Affairs, Hon Tau Henare. It seems likely that Mr Huata and Mrs Awatere Huata also met with him about the Wairoa project.

- 6.8 Neither Mr Henare nor Dr Love considered that their knowing Mr Huata and Mrs Awatere Huata gave rise to a conflict of interest. Dr Love told us that, on the occasions when he met with them about Mr Huata's projects, Mrs Awatere Huata attended in a support role for her husband.

The Process By Which the Funding Decision Was Made

- 6.9 Mr Henare told us that he was keen for something to be done about the Wairoa project. But he invited Mr Huata to work through TPK. The Minister also discussed the matter with Dr Love. He recalled Dr Love advising him that TPK could not fund the project because it was not a funding agency.
- 6.10 Dr Love told us that he also recalled the sense that the Minister gave him a firm direction that he wanted something to be done to advance the project. Accordingly, he would have referred the matter to officials to deal with. He also told us that the Mr Henare often gave such directions with an indication of what he believed the outcome should be.
- 6.11 However, the first response of TPK officials to Mr Huata was that, to qualify for funding, the programme would have to demonstrate a significant contribution to TPK's policy development. Even then, they told him, TPK would have difficulty finding funds of this magnitude and would be unlikely to justify funding the entire project. TPK staff could, however, facilitate contacts to assist with the programme, under the "facilitation and brokerage" role.
- 6.12 This response was consistent with TPK's responsibilities and the relevant appropriations (see paragraphs 5.4-5.11).

Appointment of An Independent Adviser

- 6.13 Mr Huata told us that he was always under the impression that the project was to be undertaken in such a way as to enhance TPK's policy advice role. It appears that he was nevertheless dissatisfied with the officials' response, and approached the Minister and/or TPK again. Dr Love told us that he decided at this point to ask Mr Neville Baker to review the Runanga's proposal.
- 6.14 Mr Baker was a former Maori Trustee. Following his retirement, he had been engaged by TPK on a retainer to assist with matters of this type. He had extensive knowledge of land development matters (including in Wairoa), which formed the background to the Runanga's proposal. Clearly, he was well qualified to evaluate it.
- 6.15 Mr Baker also knew Mr Huata and his whanau. We considered whether this created a conflict of interest, but formed the view that a connection of that nature (which is common in Maoridom) was neither unusual nor unacceptable.

- 6.16 Mr Baker told us that, at the time he was brought onto the project, there was considerable frustration at both Ministerial and senior official levels about the lack of progress. He prepared a report based on his knowledge of the background to the matter, including relevant cultural considerations.
- 6.17 Mr Baker's report presented a positive evaluation of the proposal. It was also critical of TPK's initial response to the proposal, which Mr Baker thought showed a lack of local knowledge and understanding of spiritual values of the land and cultural processes.
- 6.18 Mr Baker's report recommended that funding be made available for the project – \$220,000 plus GST from Vote Maori Affairs, and \$100,000 plus GST from the newly established Maori Economic Development Commission. (The Commission was one of several created and funded from Vote Maori Affairs, but independent of TPK.) His report also contained what was, in essence, a project plan for a programme of investigation – with key dates and milestones.
- 6.19 We spoke to the TPK official who had overseen the initial response to the proposal. The official acknowledged the importance of local knowledge and understanding of spiritual values, but thought that Mr Baker's criticism had unfairly failed to take account of officials' experience and skill in assessing proposals of this nature.
- 6.20 We observe that both types of skill are important for work of this kind.

Further Consideration of the Proposal

- 6.21 Mr Baker's report was received by the Minister's office on 30 March 1999. Mr Baker told us that he discussed the report separately with the Minister and Dr Love. As a result of those discussions, the Minister asked TPK and the Maori Economic Development Commission to indicate whether they could fund the project on a 50:50 basis.
- 6.22 The Commission's criteria did not allow it to fund projects of this nature. TPK officials then considered the proposal further. We found evidence of alarm among officials about the proposal and Mr Baker's report. Among the concerns we heard about the proposed funding of the programme were that:
- the proposed work did not fit easily with the Ministry's role as a policy agency; and
 - significant parts of the proposed work programme appeared to involve the collation of existing information, much of which ought to be available at a fraction of the cost quoted.
- 6.23 The officials also told us that, even if the project could have been justified under TPK's policy advice mandate, it would have been unusual for TPK to purchase outputs of such a size and nature without inviting competitive bids.

- 6.24 The officials prepared advice to the Minister about the proposal, which Dr Love signed on 28 April 1999. He did not recall doing so, but accepted that he did. The advice contained the following commentary –

In the event that you consider that this Project should be funded by the Ministry, Te Puni Kokiri advises that the most appropriate means of doing this is for the Ministry (advised by TPK's Hastings office) to administer contestably tendered contracts for the programme directly with providers. This approach is likely to ensure greater transparency and accountability than providing lump sum payments to Te Runanga o Ngai Tane. It is also likely to provide greater ability for the Ministry to align the pilot project with related policy initiatives – i.e. that we can learn from the project in terms of the policy advice we provide in like situations.

The Ministry has identified \$120,000 (GST incl) of funds in the 1998/99 financial year that could be made available for this project. These funds would be provided on the understanding that they could only be applied to those components of the projects which are likely to advise TPK's policy work – the funds could not be applied for capital purchases. A letter to Mr Huata, to this effect, is attached for your signature.

- 6.25 The Minister accepted the Chief Executive's advice and signed the letter to Mr Huata. The letter said –

I envisage that the role that Te Puni Kokiri will be able to play will be to facilitate the proposal by assistance to Te Runanga o Ngai Tane to facilitate meetings of owners and providing advice on various aspects of the proposal.

This will include the provision of some funding from Te Puni Kokiri in the facilitation role and in purchasing other professional advice to assist the Runanga to implement and monitor the programme. I have requested that Te Puni Kokiri provide for up to \$120,000 (GST incl) to cover such costs. You will appreciate that the Ministry does not have the mandate to fund the operational aspects of the programme.

First Contract Negotiations

- 6.26 Negotiations then began between TPK officials and the Runanga, with a view to a formal contract document being drawn up. Both Mr Huata and Mrs Awatere Huata were involved in these discussions.

6.27 The negotiations soon ran into difficulty. The main point of disagreement was the method by which the project would be funded. TPK said that (as indicated in its advice to the Minister) it would pay most of the funding to successful tenderers. Mr Huata wanted the money to be paid directly to the Runanga.

6.28 The negotiations broke down at a meeting between Mr Huata and a head office official on 27 May 1999. There followed a heated telephone call from Mr Huata to the official at home. The official reported this to Dr Love the next day (28 May 1999), and sent a fax to Mr Huata (c/o Mrs Awatere Huata's office at Parliament) in which he undertook to look further at the proposal, but said that the funding arrangement would not change.

6.29 The fax included the following –

As agreed in our meeting yesterday and subsequent phone conversation last night, I have this morning clarified a number of issues with Dr Ngatata Love, regarding the funding and administration of your horticulture project.

Dr Love has confirmed that:

...

The \$120,000 is to be administered on a project basis, paid out largely to successful tenderers who have won tenders on a contestable basis. There was never any intention that Te Puni Kokiri would enter into a lump-sum contract with either Te Runanga o Ngai Tane or yourself for the entire \$120,000. Some money may however be paid for facilitating meetings of landowners, and some land owner organisation, though it seems highly unlikely that this would be anywhere near the order of \$120,000.

6.30 Mr Huata told us that he had not understood the Minister's letter to have required an indirect funding arrangement of this type. We make the observation that the meaning of the Minister's letter is clear when read together with the written advice (signed by Dr Love) which had accompanied the draft. When read on its own, the letter may not have been as clear.

Change in Funding Approach

- 6.31 According to TPK's file, Mr Huata contacted TPK on 31 May 1999 and said that:
- the Runanga would not enter a contract unless it was paid the funds directly;
 - he had discussed the matter with the Minister; and
 - he might try again under another Minister.
- 6.32 Mr Huata denied saying that he might try again under another Minister. He told us that he refused to accept the indirect funding arrangement because he was concerned that he was being asked to carry out all of the legwork with the third parties getting the money.
- 6.33 Mrs Awatere Huata told us that she recalled asking the Minister to meet with Mr Huata about the project. Mr Huata recalled meeting with the Minister, Dr Love, and Mr Baker.
- 6.34 But the Hon Tau Henare told us that he would have told Mr Huata to continue to work through TPK officials, and that direct funding was not possible. He told us that, as Minister of Maori Affairs, he had often been asked to support funding of projects of this nature, but that funding through TPK was not usually possible because it was not a funding agency.
- 6.35 It appears that Mr Huata then took the matter up with Dr Love. Both Mr Huata and Mrs Awatere Huata recalled a meeting with him, which resulted in an agreement that TPK would fund the Runanga directly for the work. Mrs Awatere Huata told us that she attended in a facilitation role.
- 6.36 An instruction was then given to TPK's Legal Section to prepare a draft contract on this basis. TPK could produce no documentation recording either the decision or the instruction to the Legal Section.
- 6.37 The Hon Tau Henare told us that the change in funding approach surprised him and that he had been unaware of it before we told him about it. He was adamant that he did not authorise the change.
- 6.38 Dr Love did not recall having any involvement in the change of funding formula. He told us that he was sure the matter would have been documented. He was, understandably, uncomfortable about explaining what had happened without having access to documentation.

6.39 Dr Love thought it possible that the change may have been made in order to ensure that momentum on the project was not lost. However, he stated that:

- he was sure that he would not have given any direction to his staff that was in conflict with what the Minister had required or directed (in the letter of 28 April 1999 to Mr Huata);
- in all the communication between his office and the Minister (including the Minister's communication with Mr Baker), the Minister had made it absolutely clear that the project was to be funded, and this was the driving force behind everything that TPK did; and
- Mr Huata had made it plain to TPK that the project would not proceed unless his organisation was funded directly

6.40 The solicitor could not recall who had given the instructions to prepare the contract.

6.41 We find it unacceptable that such a significant change to a funding arrangement would have been made without authorisation at senior managerial level and being fully documented.

TPK's Actions Leading to the Signing of the Contract

6.42 On 1 June 1999, TPK's Regional Director in Gisborne (Tairāwhiti) advised head office officials by e-mail that she was to attend a meeting of the Wairoa Development Task Force the following day. The e-mail said –

... the [Task Force] co-ordinator phoned to day [sic] expressing real concern about TPK giving Wi money especially since he has apparently received substantial money from CEGS to do the very same project and they have not seen any results – I shall see what they have to say.

6.43 The Regional Director reported to head office immediately after the meeting. Three things had emerged. First, as predicted, members of the Task Force had expressed concern about TPK providing funding when Mr Huata had apparently not “delivered” on similar contracts with other government agencies. A later file note of the meeting recorded –

There was considerable concern expressed by many of those present. Discussion evolved [sic] around previous support provided to Mr Huata for a proposal which received CEGS funding and for which no report has been cited [sic] by the task force.

6.44 Secondly, questions had been asked about whether the Runanga had sufficient local support to undertake work in the Wairoa area.

- 6.45 Thirdly, a representative of the Wairoa Waikaremoana Maori Trust Board had raised the possibility of an alternative proposal or approach to the project.
- 6.46 It appears that only the second and third of these matters were immediately acted upon. The official responsible at TPK's head office was concerned about the risk of TPK committing funds to a project that did not have local support. He sought from the Regional Director *a more direct indication of what went down at the meeting and the feeling that people have for Wi's proposal.*
- 6.47 On 3 June 1999, the Regional Director met with Mr Huata and discussed a draft funding contract that had been e-mailed to her from head office. They agreed that the contract should include a list of the Runanga's working relationships in Wairoa, to demonstrate support from local landowners. (Nevertheless, no such clause appeared in the contract as signed.)
- 6.48 TPK's file indicates that Mr Huata had also acknowledged a "negative and confrontational" relationship with the Task Force itself. The Regional Director said that she would manage that relationship (presumably in relation to the horticulture project). Mr Huata also agreed to meet with the Trust Board representative. Mr Baker (who had become involved again on the directions of Dr Love, and remained so through to the time of the final report and thereafter) told us that he also had a role in establishing rapport with Wairoa people over the project.
- 6.49 Mr Huata told us that the difficulties in the relationship with the Task Force were of a tribal rather than a professional nature, and that he had received letters of support from a number of landowners and also the Mayor of Wairoa. The Trust Board representative who was reported to have proposed an alternative approach was one of the project's key supporters.
- 6.50 In an e-mail communication to head office on 3 June 1999, the Regional Director said –
- We know that we are going to come under fire as a Ministry for this, however, I am confident we can manage the process. I am taking a pragmatic approach and saying what the hell Wairoa is getting some attention, a resource and maybe a strategic direction.*
- 6.51 The Regional Manager told us that she relied on local contacts and intelligence information in all her communications with head office about the project.
- 6.52 There was no evidence of any further assessment by TPK's head office of either the merits or the costing of the proposal. Some of the officials we spoke to, and Mr Baker, nevertheless told us that they believed the project was a useful opportunity to test policy in a practical setting, and was consistent with TPK's policy role.

- 6.53 Mr Huata told us that the Trust Board and other key people in the Wairoa community eventually supported the project. Mr Baker also told us that he believed there was support for the project in Wairoa, and that he saw the programme as a pilot for how other similar projects throughout the country might be run.
- 6.54 We have no reason to doubt those views. However, we would have expected that the project would have been fully re-costed following the decision to pay \$120,000 directly to the Runanga.
- 6.55 Several officials told us of their misgivings at the time that \$120,000 was an exorbitant amount to pay to the Runanga for what the contract provided. However, there was no evidence that any official advised Dr Love of those misgivings.
- 6.56 Instead, work proceeded on finalising the contract. On 4 June 1999, a representative of the Runanga sent a copy of the contract by facsimile to TPK, signed by two trustees. Subsequently, on a date we could not ascertain, the solicitor responsible sent the document back to the Runanga for its seal to be affixed to the document. Once that had been done, Dr Love executed the contract on behalf of TPK. But no-one dated the contract, and it is not clear when execution was completed. Dr Love told us that he had no recollection of the matter.

The Funding Contract

- 6.57 We noted the following points about the contract:
- although undated, the term of the agreement was back-dated to 1 March 1999;
 - it specified ten services to be performed by the Runanga; and
 - it provided for payment of \$120,000 (GST-inclusive) directly to the Runanga, in three instalments on completion of the services to the satisfaction of TPK.
- 6.58 In addition, no decision was made at this point within TPK about which cost centre would pay for the services. We regard this as unsatisfactory. It appears to have been assumed that the work would be funded from the Land Resources Portfolio budget. The official responsible for administering that budget had been involved in the early negotiations with Mr Huata over the contract. However, he was not told that the contract had been signed. Nor was he asked to make provision in his budget. Had he been asked, he would have said that no funds were available.

Inquiries with Other Funding Agencies

- 6.59 It was not until 8 June 1999 that TPK inquired into the possibility that the Runanga may have sought similar funding from other government agencies. Inquiries with CEG revealed an existing contractual arrangement with Te Huawhenua Trust Board for a “land development project” in Wairoa (see CEG contract 4557, page 119). A six-monthly progress report under that contract was, at the time, overdue. The Regional Manager in Gisborne told us that she was aware of the existence of the CEG contract, but not its subject matter.
- 6.60 Mr Huata became aware that TPK had contacted CEG about the CEG contract with Te Huawhenua Trust Board, and was reluctant to provide a copy of that contract to TPK. He told us that his reluctance was to do with “people jumping to conclusions”. Mrs Awatere Huata then became involved, making a number of telephone calls to TPK staff.
- 6.61 Negotiations between TPK, CEG, Mr Huata, and Mrs Awatere Huata resulted in:
- TPK officials sighting all or part of the CEG contract; and
 - Mr Huata providing a written undertaking to Dr Love that the work contracted with TPK was not a duplication of any other work funded by a government agency – including CEG.
- 6.62 It is unclear whether the contract with the Runanga had been executed at this point. Certainly, inquiries of this nature ought to have been completed before the contract was finalised.

The Appropriateness and Effectiveness of Contract Management

The Draft Report

- 6.63 On 25 June 1999, the Runanga sent TPK a draft report. Mr Huata’s covering letter said that the report satisfied a number of milestones set out in the contract. The report ran to 44 pages.
- 6.64 There appears to have been some discussion between the Regional Managers in Hastings and Gisborne and Mr Huata about the draft report. Some suggestions for improvement were made. Mrs Awatere Huata also appears to have been involved at this stage.
- 6.65 In late-June 1999, the Runanga sent an invoice to TPK, seeking payment of \$60,000 – the first two instalments under the contract. An official in head office made inquiries with the Regional Director in Gisborne. By e-mail, the Regional Director reported briefly, but positively, about the draft report.

6.66 No other evaluation was carried out on the draft report, as far as we could ascertain. The head office official nevertheless forwarded the invoice to the Chief Executive to approve payment. The invoice was paid on 15 July 1999.

6.67 Dr Love told us that he did not recall approving the payment, but would have relied on the advice of his staff in doing so.

TPK's Review of the Final Report

6.68 On 12 August 1999, the Runanga submitted its final report on the project. There was no copy on TPK's file. The Runanga also apparently submitted its invoice for the final instalment under the contract at the same time.

6.69 TPK officials reviewed the report. The Regional Directors in Hastings (where the Runanga was based) and Gisborne were asked for comment. A head office official then prepared a written appraisal of the extent to which the report met the terms of the contract.

6.70 In the official's assessment, the report:

- contained some useful material, but little in the way of original work;
- was incomplete in a number of respects; and
- contained recommendations that he regarded as unrealistic and not capable of feeding into other policy work.

6.71 The assessment concluded –

Based on what I have read I honestly don't believe that any more than \$15,000 worth of work has gone on here to get the report to this stage. A \$120,000 report needs to be significantly more robust and forthcoming than the one we have been presented with. I suggest that (1) Te Runanga o Ngai Tane be paid out \$15,000 and we thank them for their work; or (2) that we continue to work with the trust to get a better result. ...

6.72 The official was unaware, at this point, that the Runanga had been paid \$60,000 by way of the first two instalments under the contract.

6.73 We spoke to three other head office or regional officials about the report. They had different views about the monetary value of the work produced, and it was common ground that the report contained useful information. But none of the officials considered that the report ought to have cost TPK \$120,000 to produce. One official remained concerned about the possibility of overlap with the work that had been funded by CEG.

- 6.74 Mr Huata told us that at no time was he made aware of the officials' concerns about the report. Mr Baker told us that he had read the report and found it well produced, and that it pinpointed areas for further discussion.
- 6.75 We were also told of a meeting with Mr Huata and Mrs Awatere Huata, at which the value of the work was to be discussed. The head office official who called the meeting told us that it took place before the final payment was made on the contract. However, there was no written record of such a meeting. The official may have been referring to a later meeting, on 12 October 1999, after payment had been made (see paragraph 6.83 below).
- 6.76 TPK paid the final instalment of \$60,000 on 22 September 1999. TPK was unable to produce documentation for this payment, and we could not ascertain who authorised it.
- 6.77 Mr Huata defended the value of the report. He told us that it had been no easy matter to get "buy-in" from landowners, and that the report had been the foundation for a number of successful horticultural developments in Wairoa – because of its microclimate that is capable of producing early crops for summer fruit.
- 6.78 Despite this, we are not satisfied that the final payment under the contract was appropriately made. The head office assessment of the report had identified a number of items under the contract that the Runanga had not performed, and there was no firm evidence that these deficiencies were discussed with Mr Huata or otherwise addressed before the payment was made.
- 6.79 As to the work that had been performed, the contract made it clear that the services must be completed "to the satisfaction of [TPK]" before payment could be made. The evidence from our interviews indicated that officials were not satisfied, and would not have made the final payment. There was no other documented assessment of the report that would otherwise have justified the payment being made.
- 6.80 Both payments under the contract were charged to the Land Resources Portfolio budget. The official responsible for that budget was not aware of either payment at the time they were made. This was contrary to normal practice. Normally, the manager responsible for the relevant budget would check the invoice, ensure that it was properly payable under the contract, and either approve it him/herself or make a recommendation to a more senior manager who had the necessary delegated authority.
- 6.81 The payments came to the attention of the official responsible for the budget in October 1999. The official was informed that the payments had been charged to that budget. But there was no provision in the budget for them. The manager therefore applied to the Budget Review Committee, for additional funds to be made available from the contingency fund. The Budget Review Committee approved the request.

6.82 Dr Love commented that the contingency fund was available for projects of this type, and that officials would have been satisfied that there were sufficient funds to pay for the project before it was launched.

Subsequent Events

6.83 It seems that, following delivery of the Runanga's report, head office officials expected that regional office staff would assume responsibility for following up the project. The evidence suggests that this was not communicated clearly. Neither the Hastings nor the Gisborne Regional Manager felt they were "in the picture". Accordingly, at their initiative a meeting took place on 12 October 1999, at the head office of TPK, involving Mr Huata and Mrs Awatere Huata.

6.84 Another meeting was planned for 17 November 1999. It was to involve the same parties and also Dr Love. But it was postponed (on Dr Love's instructions) until after the impending General Election, and it appears never to have taken place. Dr Love could not recall the reason for his instruction, but told us that he did not think it had anything to do with the fact that Mrs Awatere Huata was standing for re-election.

6.85 Our examination of the contract ceased at this point in the sequence of events.

Comment

6.86 We are left with considerable misgivings about the circumstances of the negotiation of the contract. We are not convinced that the amount of money paid directly to the Runanga for the report was appropriately reviewed or costed before the contract was entered.

6.87 Moreover, the direct payment arrangement appears to have been wholly inconsistent with what TPK advised the Minister should be the approach, and what the Minister, by accepting that advice and writing to Mr Huata in the terms he did, intended. Notwithstanding Dr Love's clear understanding that the Minister had directed that he wanted this project funded, we would have expected TPK to have:

- sought the Minister's agreement to the change;
- re-costed the project; and
- ensured that those costings were properly reflected in the contract.

6.88 There was no evidence that any of those steps were taken.

6.89 Nevertheless, we heard several comments that the report produced under Contract 1296 has had enduring value and has provided the basis for positive land development in the Wairoa district. Mr Huata also asserted that the amount of money paid for the project (\$120,000) was not exorbitant and was not enough to do what needed to be done.

Contract 3932: National Maori Producer Network

6.90 In June 2001, Te Huawhenua Trust Board (the Board) applied to TPK for funding totalling \$545,000 plus GST to develop the concept of a Maori producer network.

6.91 The application followed earlier funding of the Board under contract 2376 in February 2001 (see Appendix 2 on page 146). The object of that work had been to build the capacity of Maori producers and growers in the Hawkes Bay region to participate in domestic and global markets. The work had been completed successfully.

6.92 The object of the new proposal was to extend the network into a national project by:

- establishing a national database of Maori producers;
- providing services to producers; and
- promoting Maori brands under an umbrella marketing strategy.

The Process By Which the Funding Decision Was Made

6.93 The Hastings regional office of TPK assessed the funding application and referred it to the Executive Committee at TPK's head office. We were told there was strong support for the merits of the project, but that the cost was considered excessive. Accordingly, the application was declined.

6.94 However, the regional office was instructed to work further with the Board to identify how TPK and other agencies might be able to assist with the initiative. A letter to this effect was sent to Mr Huata (on behalf of the Board) on 15 August 2001.

6.95 It appears that Mr Huata was not prepared to accept the decision, and persisted with the application for funding on the basis outlined in paragraph 6.92. Further meetings took place with both regional and head office staff.

6.96 Discussions came to a head at a meeting on 29 August 2001 between Mr Huata and members of the Executive Committee at TPK's head office. The senior representative of TPK at the meeting was the General Manager, Regions/Operations (the General Manager).

- 6.97 The General Manager had only recently joined TPK, but had extensive experience in the funding of community organisations. He had previously worked for other government agencies (including CEG) in the Hawkes Bay area. In those capacities he had known Mr Huata and Mrs Awatere Huata for many years – both professionally and on a friendship basis. He had formed similar relationships with many other people in the Hawkes Bay community over the years. He told us that he was familiar with the persistent and sometimes confrontational style that Mr Huata used when negotiating for funding.
- 6.98 At the meeting on 29 August 2001, the General Manager was faced with a situation where the application clearly had merit, and ought to proceed, but could not be funded at the level being sought. He elected to negotiate directly with Mr Huata, and to offer TPK funding of \$100,000 including GST (subject to approval by the Executive Committee) to enable the Board to do work to secure funding for the initiative from other agencies. He believed that an approach of this type fitted the criteria for capacity building grants.
- 6.99 It was not unusual for officials to discuss and negotiate with applicants over funding applications. Typically, the objective of such negotiations was to work through the proposal, ensure that it fitted the criteria for capacity building funds, explore other funding possibilities (e.g. involving other funding agencies), and ensure that an appropriate amount of funds would be given.
- 6.100 However, the General Manager acknowledged to us that his approach in this instance was unusual because it did not involve working the issues through with the applicant. He had calculated (based on his previous experience) that an appropriate level of funding for the work being contemplated (which included payment of appropriately skilled people, with an overhead component) would be in a range between \$60,000 and \$100,000 (GST-inclusive). He accepted that his decision to make an offer at the top end was influenced, at least to some extent, by the negotiating style typically used by Mr Huata and Mrs Awatere Huata and his wish to avoid protracted and difficult negotiations.
- 6.101 In any event, Mr Huata indicated during the meeting that the offer was not acceptable. The meeting ended. Shortly afterwards, Mrs Awatere Huata spoke to the General Manager by telephone, and they agreed to meet. When they met, Mrs Awatere Huata then continued to negotiate on Mr Huata's behalf. She indicated that the sum offered (\$100,000 including GST) was an insult to Mr Huata's mana, and that, to repair this, the Board would need \$250,000 from TPK to undertake key aspects of the project. Further funding would be sought from other agencies.
- 6.102 The General Manager did not accept the counter-proposal.

- 6.103 Some weeks later, on 2 October 2001, the General Manager wrote a memorandum to the Chief Executive (Mr Leith Comer) recommending funding up to \$100,000 (GST-inclusive) for a “specialist adviser” contract to enable the Board to co-ordinate agency input to the producer network project. A draft contract was attached to the memorandum. The Chief Executive approved the recommendation.
- 6.104 The draft contract was sent to Mr Huata. Further negotiations took place, which resulted in a decision by the General Manager to change the amount of the funding from GST-inclusive to GST-exclusive. The effect of the change was to increase the amount of cash payable to the Board from \$100,000 to \$112,500.
- 6.105 The General Manager told us that he agreed to the change because he thought it a fair point that many community organisations struggle to meet GST requirements on top of the funding they receive. He told us that he satisfied himself, before agreeing to the change, that it was also justified in terms of the value the project would achieve.
- 6.106 The draft contract was subject to approval by the Legal Section of TPK. The Legal Section raised a number of questions about the draft – including:
- whether the application had been approved by the Executive Committee in accordance with the usual process for capacity building grants; and
 - why the draft provided for half of the amount payable (\$56,250) as an advance payment, contrary to the general policy limiting such amounts to 10 per cent of the total grant.⁴⁶
- 6.107 TPK could not produce any documentation to show how these questions were addressed. However, the General Manager told us that he satisfied himself that the terms of the contract were appropriate, and obtained the necessary approval to its terms. The Chief Executive signed the contract on 11 October 2001.

Comment

- 6.108 The process used in this case was unusual. However, TPK clearly considered the project meritorious and in need of funding. It acted appropriately by ensuring that whatever work it funded was capable of meeting the criteria for a capacity building grant, and that the substantive project was picked up by other funding agencies.

⁴⁶ As to the operational guidelines for grant instalments, see paragraph 5.42 on page 82.

- 6.109 We are also satisfied that the General Manager acted professionally in the negotiations with Mr Huata and Mrs Awatere Huata. He told us that he “backed himself” to make an appropriate judgement, and we do not question that.
- 6.110 However, in our view the evidence suggests that the amount of funding agreed to was greater than TPK would normally have agreed to pay for the work involved. Mr Huata told us that, in his view, the level of funding agreed for this project was far less than what was appropriate for the work undertaken.

Chapter 7

Funding Provided by the Community Employment Group of the Department of Labour (CEG)

7.1 In this chapter we:

- outline the funding arrangements between CEG and organisations associated with Mrs Awatere Huata;
- describe briefly CEG's role in the funding of community organisations and projects;
- review the processes by which CEG considered funding applications, prepared letters of agreement, and monitored their terms; and
- review two contracts by way of case study.

7.2 Our focus on the two contracts does not imply any opinion about the merits of the projects for which funding was sought.

The Funding Arrangements

7.3 CEG entered into funding arrangements totalling \$636,000 with organisations associated with Mrs Awatere Huata from when she was elected to Parliament in 1996, as follows.

Organisation	Contract No.	Date	Amount (GST inclusive)
Te Huawhenua Trust Board	4557	1/4/1997	40,000
	4646	12/5/1997	30,000
	52105	1/9/1998	67,500
	55226	15/6/2000	90,000
	57842	1/5/2001	2,000
	59133	1/12/2001	119,450
	60597	23/9/2002	146,250
			\$495,200

Te Runanga o Ngai Tane	60546	18/10/2002	48,000
Pipi Foundation Trust	57896	10/7/2001	40,000
	59812	17/5/2002	2,000
			42,000
Young Designers Scholarship Trust	60467	10/6/2002	49,700
Young Fashion Designer Travelling Scholarship	59962	6/6/2002	1,100
Grand Total			\$636,000

CEG's Role

- 7.4 CEG works alongside communities, helping them devise employment and economic development projects. The key assumptions made are that planning at a community level ensures that a project has broad community support, and that community resources – particularly time and effort – are committed to the project.
- 7.5 CEG has a pool of grant funding for community development and employment projects. It also has some grant funds targeted for specific purposes – e.g. Maori Organisational Development, Maori Women's Leadership, Maori Local Partnership, and Maori Land Development.
- 7.6 The CEG field workers provide mentoring and monitoring for the community group's project. It is their job to assist with planning, preparing the application, and tracking progress. This responsibility is intended to ensure that CEG knows what the project is designed to achieve and that any grant funding is used appropriately.
- 7.7 Therefore, CEG grant funding is one response to support community-based initiatives. It is a funding pool that enables CEG to react to community initiatives rather than commission projects on a contestable basis.

The Guidelines for Grants

- 7.8 CEG has draft guidelines entitled *Community Employment Grant Guidelines* (the draft *Guidelines*). The copy we were provided with was dated 8 May 2000. We were told that these draft *Guidelines*:
- are based on policies and procedures that have been developed over time; and
 - were due to be finalised by May 2003.
- 7.9 As far as we are aware the draft *Guidelines* remain in draft. They also require updating to cover the Community Employment Organisation Scheme.
- 7.10 The draft *Guidelines* are comprehensive, and cover in detail policy and procedural matters related to:
- the assessment of grant applications;
 - the preparation and approval of letters of agreement;
 - the management and monitoring of project progress;
 - the authorisation of payment and other financial procedures; and
 - project evaluation/audit/post-project review.
- 7.11 We were also provided with other supporting documentation prepared by CEG's Internal Auditor in the form of audit plans and file notes/e-mails that have been issued. These expand on and provide further clarification of expected practice to be followed in CEG grant process.
- 7.12 However, the introduction to the draft *Guidelines* states that –
- ...these guidelines contain few rules. Their purpose is to be a tool that will help decision makers make decisions based on the facts of each individual application. No two applications will however be alike, and decision makers must be prepared to be flexible and exercise their discretion.*
- 7.13 In discussion with us, CEG managers emphasised that the draft *Guidelines* were not seen as “rules” that must be followed in every instance. Nevertheless, in our view, good practice would require CEG management to formally document the reasons for any significant departures from the draft *Guidelines* (even if draft) in place at the time that decisions are made.

The Process By Which the Funding Decisions Were Made

Assessing the Applications

- 7.14 We examined the application assessment process for each of the individual funding arrangements entered into with the organisations associated with Mrs Awatere Huata. We looked specifically at whether:
- the draft *Guidelines* had been complied with; and
 - the adequacy of documentation of the decision making process

Did the Applications Approved Meet the Funding Criteria?

- 7.15 In all cases we were satisfied that the applications approved were consistent with the criteria for CEG grant funding. The projects funded were ostensibly designed to assist disadvantaged groups to set up local opportunities to create employment through economic development, and educational or other initiatives.

Was the Assessment Process Sound?

- 7.16 The application assessment process was generally poor, particularly in the following areas.

Regional Manager Review

- 7.17 The field workers completed the primary assessments and provided recommendations to their Regional Manager. The nature of the field worker's role is that they are expected to work closely with the community groups on project planning and preparation of the funding applications. This closeness creates a risk that the field worker may become an advocate for the project and lose their objectivity.
- 7.18 The Regional Manager's review of the application and the field worker's assessment is therefore a crucial control in the assessment process, in order to avoid such conflicts of interest (when they arise) having an impact on the assessment process. The majority of the contract files included only brief comments from the Regional Manager on the field worker's assessment of the application.
- 7.19 In our view, the Regional Manager's review of a number of field worker application assessments lacked the necessary rigour to ensure that the draft *Guidelines* had been complied with. For example:
- in contract 55226 (see Appendix 2 on page 145), we were concerned that an "independent" review of the proposal had been carried out by a field worker whose work had brought him into close contact with Mr Huata in the past, and that a proposal that the same fieldworker chair

the “design team” (that would steer and monitor the project) was accepted by CEG management; and

- in contract 59133 (see Appendix 2 on page 147), CEG was unable to explain a variance of \$110,285 between the total budgeted project cost and the individual funding components set out in the application – which had been endorsed by a field worker and accepted by the Regional Manager.

Governance and Accountability

- 7.20 The assessment of the governance and accountability arrangements in place in relation to the organisations applying for funding was of poor quality. The basis used to assess the governance and accountability arrangements was not formally documented and, in many cases, the draft *Guidelines* were not complied with.
- 7.21 Our discussions with CEG managers confirmed that field workers are expected to assess/analyse community organisations in terms of their governance skills/resources, financial systems, and Board experience. In addition, the General Manager’s office would look at:
- the “soundness” of the organisation from a financial perspective;
 - the nature of the legal entity (e.g. incorporated society or charitable trust); and
 - employment of Trustees, and whether this is allowed by the organisation’s Trust Deed (where this is the case, the organisation should ensure that the Trustee relinquishes governance responsibility for the project).
- 7.22 We would have expected a properly documented assessment of the governance and accountability arrangements to have been completed in each case. We would also have expected that the Trust Deed for each of the organisations would have been subject to formal review and legal advice sought when necessary. Based on our review of the contract files and discussions with CEG managers, no formal reviews were completed.
- 7.23 In fact, CEG does not appear ever to have raised any questions about the need for segregation of governance and management, accountability of the Board of Trustees and those employed by the Trusts on contract to complete the projects, or the potential for conflicts of interest.
- 7.24 In a number of cases, the chairperson of the Trust signed the letter of agreement and was then employed by the Trust as the key worker and/or project co-ordinator for the project. This was in contravention of the draft *Guidelines*.

7.25 Mr Huata told us that at no time did CEG ever raise any of the above issues with him.

Supporting Documentation

7.26 We believe good practice would have required CEG, as a minimum, to:

- obtain a copy of the signed Trust Deed for each Trust – including a current list of Trustees and beneficiaries;
- ensure that each Trust was a registered charitable trust and determine whether it was deemed charitable for taxation purposes by the Inland Revenue Department;
- ascertain the governance arrangements for each Trust – including segregation between the Trustees and management, regularity of Trustees’ meetings, and financial and non-financial reporting on the Trust’s business activities (including the CEG projects);
- obtain a copy of each Trust’s audited financial statements – especially where these were required by the Trust Deed;
- review each Trust Deed for any matters requiring either further follow-up with the Trustees or legal advice (e.g. identification of the beneficiaries, clauses relating to distribution of assets on winding up, and the employment of Trustees by the Trust);
- specifically review the potential for beneficial interest/personal gain on the part of the Trustees; and
- ensure that any potential conflict of interest issues were resolved.

7.27 The draft *Guidelines* cover a number of these aspects.

7.28 At no stage did CEG obtain audited financial statements for any of the Trusts that it funded. Again, this was in contravention of the draft *Guidelines*. However, the files contained unaudited financial statements of Te Huawhenua Trust Board for the 1999 and 2000 years.

7.29 In the case of contract 57896 with the Pipi Foundation Trust, the file included a letter from a Chartered Accounting firm, which advised that the firm had been commissioned to complete an audit. However, no audited financial statements were ever received, nor did CEG instigate any follow-up action.

7.30 In other cases, the checklists were ticked to indicate that financial statements were on file at the CEG regional or head office. Mr Huata recalled that CEG did request audited financial statements, but told us that CEG never indicated to him that production of the statements was a pre-condition of receiving grant funding.

- 7.31 We consider that audited financial statements would have provided evidence that the Trusts' governing bodies were exercising oversight and ensuring appropriate financial accountability to stakeholders in accordance with the Trust Deeds.
- 7.32 In our view, if the steps identified above had been taken at the appropriate time, many of the funding arrangements between CEG and the organisations associated with Mrs Awatere Huata would not have proceeded past the application assessment stage without further assurance being provided by the organisation concerned.

Preparation and Approval of Letters of Agreement

- 7.33 The Regional Manager reviewed the field worker's assessment and made a recommendation whether or not to proceed with the project. The application, field worker assessment, and Regional Manager's recommendation were then forwarded to CEG's grants management team in the General Manager's office. The grants management team then ensured that the grant application was complete and prepared a letter of agreement.

Grants Management Team Review

- 7.34 Again, we do not believe that the grants management team conducted its reviews with enough rigour. Proper reviews would have identified non-compliance with the draft *Guidelines*. In some instances, issues of non-compliance were identified but they were not adequately followed up.

Specification of Grant Instalments

- 7.35 Appendix 3 to the draft *Guidelines* provides a payment/reporting schedule for project grants, which specifies the number of instalments depending on the contract amount.
- 7.36 In seven out of the 12 contracts entered into with organisations associated with Mrs Awatere Huata, the number of instalments agreed were less than the number specified in the draft *Guidelines*. (We acknowledge that, in one instance, the contract was entered into before the draft *Guidelines* had been issued.)
- 7.37 In a number of cases detailed below, there were large advance instalments paid on receipt of the signed letter of agreement.

Contract number	Amount payable on signing Letter of Agreement	Total contract amount	%
4557	40,000	40,000	100.0
52105	40,000	67,500	59.2
55226	60,000	90,000	66.7
59133	60,000	119,450	50.2
60597	80,000	146,250	54.7
60546	30,000	48,000	62.5
60467	29,700	49,700	59.7
57896	28,000	40,000	70.0

7.38 It is accepted good practice to align instalment payments with expected deliverables. We understand that there may be circumstances where funding in advance is required, especially given aspects of capacity building in the nature of CEG grant funding. However, we were surprised that the draft *Guidelines* provided no guidance as to the level of advance payment that CEG believed was reasonable or in what circumstances advance payment was appropriate.

Double-funding

7.39 The draft *Guidelines* include a section on risk management which mentions that –

... often the group may be able to obtain funding and other assistance from other sources other than Community Employment.

7.40 We were surprised, however, that the draft *Guidelines* do not specifically cover:

- the way in which to assess the reasonableness of the total budgeted project cost and its funding sources; and
- how to address the risk that the same or similar work might be funded by another funding agency.

- 7.41 In our discussions with CEG managers, they said that the field workers review the reasonableness of the total budgeted project cost and its various funding sources when preparing their assessment of the application. That assessment in turn is subject to review by the Regional Manager. Double-funding issues are monitored closely, the field workers are very aware of the issue, and the General Manager's office grant management team monitors it.
- 7.42 However, our discussions with CEG managers also identified that the responsibility for ensuring that there were no double-funding issues was unclear. The field workers told us that they did not see this as part of their role. Senior managers held a contrary view. As a consequence, there was little evidence in some cases that this issue had been properly addressed.
- 7.43 Our review of the CEG contract files showed that the standard application form requires the organisation applying for funding to include details of the total budgeted project cost. Funding sources to be identified include:
- contributions from the organisation itself (in cash or 'in kind');
 - contributions from other sources; and
 - the contribution sought from CEG.
- 7.44 A number of the applications from organisations associated with Mrs Awatere Huata identified that funding was to be provided from other sources including other government agencies.
- 7.45 As discussed above under "Regional Manager Review" (paragraphs 7.17-7.19), in April 2000 CEG's National Office commissioned an "independent review" of contract 55226 (see Appendix 2 on page 145). A key issue that the review was to address was the overlap between objectives of completed CEG projects and the new application.
- 7.46 We found it surprising that, given the nature of the concerns, this review did not also consider the double-funding issue in relation to funding from other funding agencies. Both the CEG and TPK projects funded around this period had what appeared to be very similar deliverables. In addition, TPK had raised concerns with CEG on this subject in relation to earlier contracts in 1999 (see paragraph 6.59 on page 96).
- 7.47 It was evident that CEG and TPK began to work closely together at a regional level on the projects associated with Mr Huata from mid-2000. This appears to have addressed the potential for double-funding from that date.

7.48 In the case of contract 57896 with the Pipi Foundation Trust (see Appendix 2 on page 150), the application identified substantial other funding from the Ministry of Education. We found it extraordinary that, while the grants management team identified this as a potential issue, no contact was made with the Ministry to ascertain the nature of its funding and ensure that there was no double-funding. (See also paragraph 4.85 on page 63.)

Good Practice

7.49 In our view, good practice would require that the reasons for any departures from the draft *Guidelines* be documented, especially where large advance instalments are requested that exceed 50% of the total contracted amount.

7.50 We also consider that good practice requires full documentation of the process followed to review the non-CEG contributions to the project funding. Full documentation should include:

- the reasonableness assessment of the organisation's own contribution;
- the steps taken to confirm the validity of the funding from other sources (i.e. Has an application been made with other funding agencies?); and
- the steps taken to confirm the nature and scope of the work to be funded from other sources (i.e. Is there any potential for double-funding and how this has been resolved?).

Conclusion

7.51 In our view, the application assessment process should have identified instances of non-compliance with the draft *Guidelines*. These should have been followed-up and satisfactorily resolved before proceeding with the letters of agreement.

Contract Management and Monitoring

7.52 Day-to-day contract management and monitoring is primarily the responsibility of the field workers. They regularly communicate with and visit the organisations being funded to monitor progress. The results of this monitoring may not be formally documented.

7.53 However, we were told that the objectives/milestones are seen more as a guideline, and it is recognised that they may not always be fully achieved. From CEG's point of view, if there is no achievement it wants to be sure it understands why and build the learning into future projects.

- 7.54 Progress reports are often delayed. A revised timetable is normally agreed between the field worker and the organisation, but the revision may not always be formally documented.
- 7.55 There is no formal utilisation of the final financial reports on projects on the grounds that the field workers' monitoring should ensure that the deliverables are met.
- 7.56 Our review of the CEG contract files showed that project progress reports from the organisations were being received and that the field workers' assessments of progress were being completed. However, it was evident in many cases that there were significant delays in achieving project milestones, reporting from the organisations, and the Regional Manager's review of final project reports.
- 7.57 There was limited documentary evidence of the field workers' ongoing monitoring role and organisation visits. Discussion with CEG managers confirmed that this is central to the field workers' role and was taking place. Mr Huata also confirmed that there was regular liaison with the field worker responsible for each contract.
- 7.58 The effectiveness of CEG's contract management and monitoring was affected by:
- the control of instalment payments;
 - full payment before receipt of the final reports;
 - the review of the final expenditure report; and
 - contract terms and conditions.

Control of Instalment Payments

- 7.59 In all cases, instalment payments were held over until progress reports from the organisations had been received. However, despite the fact that some deliverables were not achieved, final instalment payments were made in all cases.
- 7.60 The draft *Guidelines* state that holding over a portion of the instalment could be used to help or encourage the project to get back on track. We were surprised that CEG did not use this mechanism more often in relation to the funding arrangements subject to this inquiry.

Full Payment Before Receipt of the Final Reports

- 7.61 In all cases, CEG had paid the full contracted amount before the final project and expenditure report had been received. This was in accordance with the instalment payments agreed in the letters of agreement.
- 7.62 We were surprised that this appears to be CEG's standard practice, because once the final payment has been made CEG loses a potential lever to ensure that these reports are received within one month of the end of the project as required by the letters of agreement. This perhaps explains the significant delays experienced with some final reporting.
- 7.63 In our view, good practice would be to hold over a reasonable percentage of the total funding until receipt and review of the final reports.

Review of the Final Expenditure Report

- 7.64 The final expenditure reports were subject only to limited review by the field workers. There was no evidence on any of the contract files to document that the reports had been compared to the original budget.
- 7.65 In the case of contract number 55226 (see Appendix 2 on page 145), the final expenditure report showed underspending on the project of \$9,632. There was no evidence on file that this had been identified or followed up with Te Huawhenua Trust Board. Mr Huata informed us that the underspending related to the GST element, and that he had discussed this with the field worker. He couldn't recall any other questions ever being asked by CEG on the final expenditure reports.
- 7.66 In our view, good practice would be to review the final expenditure report against the budget and:
- follow-up with the organisation any major variances, particularly underspending; and
 - carry out sufficient verification of the expenditure against supporting information to ensure that the report is valid.

Contractual Terms and Conditions

- 7.67 The letters of agreement all included the following clauses –

Grant conditions: To ensure adequate levels of accountability for the use of public funds your signature to the letter of agreement is deemed to signify acceptance of the following conditions:

- *Community Employment Group grant funds will be shown separately in your organisation's recorded accounts so that all*

expenditure of this money and what was purchased can be readily identified.

- *Any interest earned on Community Employment Group grant funds will be separately identified in your organisation's accounts and will only be used to achieve project objectives.*

7.68 CEG was unable to provide any evidence that either of these conditions were monitored. Mr Huata told us that CEG never raised any questions with him in relation to these terms and conditions. He emphasised that financial expenditure reports were provided for each project. But CEG did point out that it could request an audit review if any concerns were identified.

7.69 In an internal e-mail dated 2 December 2002, CEG's Internal Auditor commented on his views on these grant conditions stating –

This means that there are two levels of financial reporting and my view of what this means is as follows:

1. Project Financial Report

The expenditure for the project should be reported on in the same accounting classifications as used in the Budget Items in the Application Form for the grant. This will enable CEG to make comparisons between the actual and budget and significant variances in expenditure can then be identified and explanations sought if necessary.

Note that all expenditure incurred and/or committed to the project should be reported. This includes all payments made, accounts received but not yet paid, and contracts committed to but services not yet received.

2. Organisation Financial Report

Annual financial statements (usually audited) to disclose separately the funds received from CEG as a separate line item in the income in the Statement of Financial Performance or separately included as a note to the accounts.

By being included in the formal accounting system of the organisation implies that there is a clear audit trail back to the supporting documentation such as the receipts or invoices.

The fieldworker should review the Project Financial Report and comment as to whether all the funds have been used appropriately towards the project. If there is a balance left the group should apply for an extension, apply for a change in purpose, or return the balance.

7.70 We concur with the Internal Auditor's views.

Grants Management Team Assessment

- 7.71 The grants management team completes an overall assessment of the final report for each project and gives it a rating out of ten. The following results were recorded:

Date	Contract number	Rating out of ten	Management Team Comments
7/3/03	57842	3	There is little merit in this report
11/4/03	55226	3	Very light reporting not value for \$\$
7/5/03	57896	5	–
7/5/03	59812	3	–

- 7.72 We would have expected this information to be formally discussed by the grants management team with the Regional Manager and field worker, and then with the organisation being funded. Where appropriate, these assessments should then feed into the assessment process for any future grant funding applications.
- 7.73 We found no evidence of any such discussions. Mr Huata confirmed that CEG had never raised with him any of the concerns recorded above

Good Practice

- 7.74 In our view, good practice requires that instalment payments be matched to actual delivery. Instalments, or a portion thereof, should be withheld until there is clear evidence of performance. Final payments should not be made until final project reports (including financial expenditure reports) are received.
- 7.75 The final expenditure reports should be subject to sufficient verification to ensure their validity.
- 7.76 Compliance with grant terms and conditions should be monitored to ensure that they are fully complied with.
- 7.77 Assessment of final project reports should be discussed with the provider and fed into the assessment of future grant funding applications.

Conclusion

- 7.78 The effectiveness of CEG’s contract management and monitoring was poor. While the close involvement of field workers with the projects does provide a good base, we believe it is essential that the reviews by the Regional Manager and grants management team be strengthened.

Case Study: Contract 4557

- 7.79 On 19 December 1996, Mrs Awatere Huata wrote to the Minister of Employment, Hon Peter McCardle, about an employment initiative being undertaken by Te Huawhenua Trust Board (the Board) in the Wairoa district. The letter apparently followed an earlier discussion with another Minister, who had expressed support for the proposal.

- 7.80 The letter said –

...I am writing to you to seek your support for the employment initiatives being undertaken by the Te Huawhenua Trust Board which until the election I chaired. The Te Huawhenua Trust Board is a charitable organization whose current work includes parenting programmes and establishing vegetable gardens and health centres in Hawkes Bay.

I would very much appreciate it if you would assist the Trust Board to be funded through your department to carry out this work.

- 7.81 At the time Mrs Awatere Huata wrote this letter, Mr Huata was the chief executive officer of the Board. We found no evidence that she declared this to the Minister.
- 7.82 Mr Huata told us that he asked Mrs Awatere Huata to write to the Minister. She was a new MP at the time, and he understood from precedents involving other MPs (including Hawkes Bay MPs associated with the Flaxmere Community Trust) that it was acceptable for her to do so.
- 7.83 The Board itself provided further information to the Minister about the proposal in a document entitled “Ngati Kahungunu Employment Initiative”.
- 7.84 On 21 January 1997, the Minister’s office referred the matter to the Secretary of Labour, indicating that the Minister supported the initiative and was committed to seeking “assistance” for it. The Secretary was asked to arrange for officials of CEG and the New Zealand Employment Service to study the information provided, and prepare a briefing paper for the Minister once the assistance available from government agencies had been identified and agreed.

7.85 The matter came to be treated as an application for funding by CEG, and was put through its normal application processes. Indeed, a CEG field worker had been working alongside the Board on the project for some time. We found no further evidence of Mrs Awatere Huata being involved beyond her initial oral and written approaches to Ministers. Mr Huata handled the matter on behalf of the Board.

7.86 CEG officials told us that it is unusual, but not unknown, for a funding application to be made through a Minister.

7.87 The Board prepared a formal proposal for the then General Manager of CEG in February 1997. It sought funding by CEG for the following items:

Salary	\$30,000
Administration	\$5,000
Travel	\$3,000
Hui	\$2,000

7.88 The application was considered and discussed further with Mr Huata. It was approved on the following basis, as advised to the Minister on 14 February 1997 –

...the initial support being sought from the Community Employment Group has been narrowed to the developmental work with Maori landowners to achieve their commitment to the land development proposal. It was agreed that this element needs to be achieved before moving on to the feasibility study stage.

7.89 In an undated report on the project, Mr Huata stated that he had overseen the project, and that two others had been contracted to carry out a range of tasks. Several others had carried out roles on a voluntary basis. Under the heading “Future Direction”, the report said that the Board had continued to work on the project *even though there has not been any funds left for travel and phone, let alone salary.*

7.90 The project financial report consisted of one page, showing costs as follows:

Wages	\$31,068.39
Administration	\$5,000.00
Travel	\$2,000.71
Planning/Hui	\$2,670.00

7.91 We asked Mr Huata whether he had received any of the budgeted salary payments, and if so whether this had been anticipated at the time of the first approach for funding. He told us that the proposal had been completed by the time Mrs Awatere Huata wrote to the Minister, but that he had not received any salary income personally.

- 7.92 CEG could provide no evidence of having reviewed the actual expenditure against the agreed budget. There was also no evidence that CEG had monitored the conditions of the funding agreement that required CEG funds, and interest earned on them, to be separately identified in the Board's financial statements.

Case Study: Contract 60597

- 7.93 On 5 June 2002, CEG received an application from the Board for grant funding under the Community Employment Organisation (CEO) Scheme. The proposed project involved establishing a business enterprise to produce rewena bread and hangi meals, and to sell them not only through an existing retail outlet but also in local supermarkets. It was also proposed to use Job Plus subsidies (under a joint venture with the Ministry of Social Development) with a view to stimulating the business and removing the need for ongoing subsidies over one-to-three years.
- 7.94 The total cost of the project was budgeted to be \$778,436, with funding requested from CEG totalling \$225,000. The proposed costs were a mixture of capital and expenditure for establishing the business under a company structure – Totally Hawkes Bay Limited. Mrs Awatere Huata and Mr Huata were the only directors of that company (see paragraph 2.5 on page 21).
- 7.95 The Board's contribution was to total \$553,888, which included the cost of the building and sales and distribution costs of \$514,500. The application also included the comment that –

The Trust Board has already invested \$3,000,000 into its existing business over the last 9 years. However for the sake of this proposal we have not taken this into consideration.

The Process By Which the Funding Decision Was Made

- 7.96 The field worker recommended CEG funding for the project of \$225,000. In his assessment of the application, dated 12 June 2002, he was fulsome in his praise of the Board, its past performance in relation to CEG contracts, and the proposal itself.
- 7.97 The field worker went on to state –

The Trust's Business Plan has been fully discussed with CEG's CEO consultant for the Central Region, who believes and is impressed with the budget preparation attached to the plan.

In terms of the funding request the reality is that the group is seeking the grant to finance the initial start up costs.

The other reality is that this request may be stretching the kindness and nerves of those within CEG who have delegated authority to approve the amount.

7.98 CEG was unable to supply any documentation in relation to the CEO consultant's review (he was a former CEG employee engaged on a contract basis). We were told that his review was largely based on verbal discussion.

7.99 CEG was also unable to supply a copy of the field worker's assessment approved by the Regional Manager. Nevertheless, it appears that this application was subject to extensive review by CEG's national office, which co-ordinated subsequent negotiation of the letter of agreement directly with the Board.

7.100 CEG's Internal Auditor extensively reviewed the application. On 23 July 2002, he concluded and recommended:

- *We need to ensure that all reporting obligations for existing funded projects with CEG are satisfied.*
- *It will be useful to receive the most recent set of financial statements for Te Huawhenua Trust Board as well as for Totally Hawkes Bay Ltd.*
- *The nature of financial support requested is in the form of assisting with working capital for the first 3 months and not to subsidise the business for the first year. It is more appropriate for the Trust to provide the finance or the bank could be approached for a loan.*
- *In my opinion there are too many new variables in the business plan to be able to be confident that the plan is reasonably attainable. Sensitivity analysis and proof/evidence is required to justify levels of income and expenditure.*

Recommendation

1. *To decline the application on the basis that according to the financial information submitted the organisation plans to produce a profit before tax of \$559,446 and therefore it would be more appropriate to seek a loan from a finance company to finance the start-up working capital.*

7.101 The Grants Management Team then extensively considered and analysed the proposal. The analysis focused specifically on whether the project ought to be funded by CEG by way of grant, or whether it was really in the nature of a commercial venture for which bank finance would be more suitable. CEG managers told us that this was the first time this issue had arisen so starkly in a funding application.

7.102 We were also surprised to find that, at this time, consideration was given to changing the vehicle for the project from the Board to the Pipi Foundation. We noted the following internal e-mail exchange –

“Can Te Huawhenua Trust support the project themselves or obtain finance from a bank?”

Per your conversation with Wi you highlighted the issue that the Trust has got a substantial asset base and that bank finance may be more appropriate. George and Wi have discussed this and Wi believes that the bank will not support the venture because the niche market is untried and untested at the scale envisaged. George suggested that the project be transferred to Te Runanga o Ngai Tane and Wi suggested the Pipi Foundation instead as the constitution is better suited and it is already a CEG client. Wi has asked for George’s consent for the Pipi Foundation take the CEO project up instead.

...

There are reports outstanding on a couple of projects with the Pipi Foundation however these could be followed up as a prerequisite to advancing this project. The objectives of the Pipi Foundation are associated with the Pre-school Instruction for Parents Initiative programme aimed at developing reading, language, maths, physical development, and social skills of pre-schoolers. The CEO initiative is at another pole in relation to Foundation’s roots and may not be the best thing for it (although permissible in the Trust Deed) – obviously the Trustees would have to agree to the inclusion of the CEO in its business.

7.103 The possibility of transferring the project to Pipi does not appear to have been pursued further. However, we were surprised at the proposal because:

- Pipi had not been established for this purpose; and
- we understood that Pipi had been established to administer the *Four Minute Reading Programme* on an arm’s-length basis from Mrs Awatere Huata and members of her immediate family (see paragraphs 3.40-3.42 on page 35, and Chapter 4).

7.104 There is evidence that CEG’s head office staff were concerned about the viability of the project – in particular, the soundness of the market research as to the saleability of rewena bread and hangi meals. It is not clear what action was taken in relation to these concerns. We were told that subsequent discussions were held with Mr Huata and that the issues identified were satisfactorily resolved. CEG was unable to provide any documentation of these discussions.

7.105 However, on 12 September 2002 a CEG official sent an e-mail to Mr Huata saying –

Apologies for the delay...trying to reconfigure this project and meet other competing demands has taken longer than I thought.

We have realigned the projections from your original profit/loss/cashflows within the original business plan and taken a pro rata of expenses as a direct result of the café and hangi no longer applying in this year. This (interestingly) supports the agreed amount of \$130,000 (GST excl) from our meeting. Naturally this will depend on the sales of the Rewena bread meeting the projection of \$2,191,000.

7.106 Mr Huata replied the same day agreeing to the proposed letter of agreement objectives and requesting a meeting the following Tuesday to sign the agreement.

7.107 On 4 October 2002 the Grants Manager approved the initial instalment of \$80,000 for payment.

Comment on the Assessment Process

7.108 CEG explained its decision to fund this project by saying that it had potential to create significant employment opportunities. The assessment process for this type of initiative was still evolving – especially in respect of the risk/benefit criteria. CEG had considered the possibility of asking the Board to obtain funding from other sources, but had found that commercial finance was not a viable option due to the unproven nature of the market and the unsustainability of the interest payments required. CEG cannot provide suspensory loans.

7.109 On this basis, CEG believed that the investment in the project was justified.

7.110 We were nevertheless concerned with some aspects of the assessment process. There appears to have been confusion over which organisation would be the vehicle for the funding. The original application was made by the Board, and was supported by financial projections for Totally Hawkes Bay Limited prepared by PricewaterhouseCoopers (It appears that CEG gained considerable comfort from the fact that PricewaterhouseCoopers prepared the financial projections and acted as financial advisor to the Board.) These projections were prepared based on assumptions determined by Mr Huata, and showed that Totally Hawkes Bay Limited would require a cash injection. Funding was made directly to the Board, and no funds have been passed to Totally Hawkes Bay Limited.

7.111 Mr Huata told us that direct funding to the Board was at CEG's insistence, and that no funding had been transferred to Totally Hawkes Bay Limited.

7.112 We were surprised to find no evidence of any formal assessment of the proposed governance arrangements for either the Board or Totally Hawkes Bay Limited. In particular, no question was asked about the fact that Mr Huata and Mrs Awatere Huata were the sole directors of Totally Hawkes Bay Limited.

7.113 As the project was based around the projected performance of Totally Hawkes Bay Limited, we would have expected CEG to require that an independent director be appointed to the company's Board.

*The Appropriateness and Effectiveness
of Contract Management*

7.114 On 24 February 2003, the Board sent its first report on the project to CEG. The field worker then prepared an assessment report on the project's process. The assessment report noted that the Board had been late in complying with its two-monthly reporting requirements, but said that the project was "tracking well" and recommended payment of the second grant instalment – on condition that two outstanding reports were received.

7.115 We were concerned at the recommendation that the second instalment payment be made despite the Board's non-compliance with its reporting requirements. CEG defended the payment on the basis that it believed that the project was on target. It had sighted contracts between the Board and supermarket outlets, and was also aware that training of workers was under way (using Ministry of Social Development job subsidies).

7.116 However, Mr Huata told us that no such subsidies had been received. The training was being provided by the Whakatu Community Trust. Mr Huata has no interests in that organisation.

7.117 CEG also acknowledged that:

- It had not conducted any review of the Board's expenditure under the contract. The letter of agreement required audited financial statements to be produced, but these were neither requested nor received. We found evidence of confusion as to whether the financial statements referred to in the contract were those of the Board or Totally Hawkes Bay Limited. Mr Huata told us that he understood it was the Board that was to produce its financial statements.
- It had not requested or reviewed any internal reports prepared about the project for the Board's Trustees.

Chapter 8

Funding Provided by Poutama Trust

8.1 Poutama Trust is a body corporate registered under the Charitable Trusts Act 1957. It is involved in promoting Maori economic development, and provides financial and management assistance through feasibility studies, management support, and general support services. It is a public entity, listed in Schedule 2 of the Public Audit Act 2001.

The Funding Arrangements

8.2 There were three funding arrangements between Poutama Trust and organisations associated with Mrs Donna Awatere Huata since her election as an MP 1996. These were as follows:

<i>Organisation</i>	<i>Date</i>	<i>Amount (GST-inclusive)</i>
Aotearoa Horticulture Limited	20/5/2000	3,262
Te Huawhenua Trust Board	10/9/2001	4,839
Young Designers Scholarship Trust	21/8/2002	5,625
Total		\$13,726

The Grants Programme

8.3 Poutama Trust provides business development grants to Maori organisations or Maori individuals in business or seeking to be in business. Businesses with total assets of \$5 million or more and a turnover of \$3 million or more are not eligible for funding.

8.4 Poutama Trust's grant funding is paid directly to the independent third party that provides the business with the service, product, or training course. Applicants must make a personal financial commitment to the business service or training course by meeting costs not covered by the grant funding.

The Grant Criteria

8.5 Business development grants are available for business investigations, business training, and business growth initiatives. Poutama Trust will fund new and existing businesses for a range of activities – including land use planning and overseas market research and travel, for up to 50% of costs. If the funding sought is greater than \$7,000 including GST, the Trust may require a business evaluation.

- 8.6 To be eligible for overseas travel assistance an applicant must provide:
- market research that has been done and that indicates overseas travel is needed to secure that market; and
 - an itinerary of appointments – including dates, names of business contacts to be met, towns, and countries.
- 8.7 Other conditions are that:
- up to two Maori business people may be funded for travel, and individuals or organisations can apply a maximum of three times;
 - funding covers 50% of accommodation, meal and surface travel costs, to a maximum of NZ\$200 per day per person;
 - up to two-thirds of travel costs may be paid in advance and the balance paid on receipt of a report by the applicant on the outcomes of overseas travel; and
 - a maximum of \$10,000 per calendar year can be approved.

The Process By Which the Funding Decisions Were Made

The Applications

Travel to China – First Grant

- 8.8 Aotearoa Horticulture Limited made a business development grant application to fund 50% of the costs of travel to China to investigate the feasibility of a joint venture with Chinese horticultural producers.
- 8.9 The letter confirming approval of the grant was signed by Poutama Trust's Chief Executive and dated 20 May 2000. The letter stated the grant was a part subsidy towards total costs of \$7,144, to be used for return airfares Auckland/Hong Kong/Qingdao/Beijing/Shenzen and 12 nights' accommodation. Payment was made directly to House of Travel on 20 May 2000.
- 8.10 Mr Huata as Managing Director of Aotearoa Horticulture Limited signed the acknowledgement of the letter.

Travel to China – Second Grant

- 8.11 Te Huawhenua Trust Board made a business development grant application to fund 50% of the costs of travel to China to further explore and develop the relationship with the Chinese that visited New Zealand in 1999.
- 8.12 The letter confirming approval of the grant was signed by Poutama Trust’s Chief Executive and was dated 10 September 2001. The letter stated the grant was funding for 50% of the total costs of \$9,678, to be used for return airfare Auckland/Hong Kong/Yantai and nine nights’ accommodation. It went on to say that two-thirds of the travel costs would be paid in advance and the balance on the applicant furnishing a report on the outcomes of the overseas travel upon return to New Zealand.
- 8.13 Mr Huata as Chairperson of Te Huawhenua Trust Board signed the acknowledgement of the letter.
- 8.14 There was no evidence of double-funding, but the purpose and objectives for the two travel grants were very similar to the travel funded by Trade New Zealand for the Aotearoa Maori Producers Export Network in May 2001 (see Chapter 9 at page 133).

Fashion Show Sponsorship

- 8.15 The Young Designers Scholarship Trust applied for a business development grant to assist with funding a portion of the total estimated costs of \$45,000 for holding a fashion show.
- 8.16 The letter confirming approval of the grant was signed by Poutama Trust’s Chief Executive and was dated 1 August 2002.
- 8.17 Hinemoa Awatere Huata as Interim Chair of the Trust signed the acknowledgement of the letter. She is Mrs Awatere Huata’s daughter.

Assessing the Applications

- 8.18 We examined how Poutama Trust assessed the application for each of the funding arrangements. We looked at whether:
- the business development grant eligibility criteria had been complied with; and
 - the adequacy of documentation of the decision making process.

Was the Assessment Process Sound?

- 8.19 The assessment process was poor.

- 8.20 Each assessment was formally documented using the standard application assessment form. A summary of each application was prepared and the assessor signed a recommendation stating that Poutama Trust's grant conditions and criteria were met.
- 8.21 The documentation to support these recommendations was poor.
- 8.22 Two of the assessments identified areas where the application was rated as poor. However, there was no documentation to show how these weaknesses were addressed.
- 8.23 Based on our review of the assessments, it was not clear to us how the Poutama Trust's funding priorities or (in some cases) the criteria for business development grants were met. For example, it appears little financial information was obtained from any of the organisations and little substantiation of the business case for overseas travel was completed.
- 8.24 We were told that RGA Holdings Limited and John Morton Limited, the strategic partners of Aotearoa Horticulture Limited, had conducted extensive market research. This research was attached to a previous application for the Wairoa Regional Feasibility Study, which was declined on 15 November 1999. None of the application assessment forms referred to this market research.
- 8.25 We would have expected the application assessment process to have specifically documented how the conditions and criteria were met.

Overseas Travel Criteria

- 8.26 In some instances there was no documentary evidence to support the detailed eligibility criteria/funding rules for overseas travel. For example:
- There was no detailed itinerary of appointments or parties to be visited. (We were provided with an e-mail outlining a detailed itinerary dated 6 September 2001 for the second travel grant.)
 - Advance payment was made for all travel and accommodation costs.
 - Funding was paid directly to the applicant rather than the service provider (in one case, without adequate evidence of payment to the provider).
 - Accommodation costs exceeded the NZ\$200 per day per person limit. (Poutama Trust advised that, in the instance raised, the total grant actually paid was less than the amount originally applied for.)

- 8.27 We were told that these deficiencies would have been verbally discussed and cleared with the applicant. Mr Huata confirmed that Poutama Trust officials did raise with him some issues about the information provided with the applications but, as far as he was aware, these were satisfactorily resolved through discussion.
- 8.28 We would have expected that any departures from the standard eligibility criteria/funding rules would have been specifically documented and approved.

Double-funding

- 8.29 Poutama Trust's policy is to fund up to 50% of costs and the applicant to fund the other 50% from their own resources. This is specified as a term and condition on the grant application form. We were surprised that this was not specifically included in the letters of agreement. Mr Huata confirmed that Poutama Trust made it clear that 50% of the travel costs needed to be funded from the applicant's own resources.
- 8.30 Poutama Trust advised that they closely liaise with other funding agencies to ensure that the potential for double-funding is mitigated. They provided us with a copy of a letter to Aotearoa Horticulture Limited which advised the company that they were declining another overseas grant application because this was being funded by Trade New Zealand.
- 8.31 The application for the fashion show initiative mentioned that funding would be obtained from other agencies. We were told that the other agencies' funding was more in the nature of a sponsorship than a business development grant. No follow-up with those other agencies providing funding was considered necessary because Poutama Trust's funding was capped at \$5,000 plus GST and (thus) the Trust had a reasonable degree of confidence that its funds would not be misused or misdirected. The applicant was required to demonstrate what the funds were to be used for.

Good Practice

- 8.32 In our view, good practice would require Poutama Trust to have ensured that:
- it documented how the deficiencies in the supporting information supplied with the application were addressed;
 - the reasons for any departures from the standard eligibility criteria/funding rules were specifically documented and approved; and
 - the letters of agreement specifically dealt with the matter of double-funding and, where funding from other agencies was being provided, the nature and scope of that funding was established.

Conclusion

- 8.33 In our view, for a sound application assessment process to have been followed, Poutama Trust should have sought more information from the applicants before contemplating making any grants.

Contract Management and Monitoring

- 8.34 As mentioned in paragraph 8.7, one of the conditions for overseas travel assistance includes that the applicant submit a report on the outcomes of the travel.
- 8.35 Poutama Trust received no formal report from either Aotearoa Horticulture Limited or Te Huawhenua Trust Board. We were told that Mr Huata provided verbal reports, but no file notes of those discussions were prepared.

Good Practice

- 8.36 In our view, good practice required Poutama Trust to have ensured that it received a formal written report on the results of the overseas travel. In both cases, the full amount of the grant for travel costs was paid in advance – rather than holding one-third until after receipt of the report.

Conclusion

- 8.37 The effectiveness of Poutama Trust's contract management and monitoring was poor. The Trust could not produce any documented evidence of the success or otherwise of the overseas travel it made the grants for and, consequently, would have difficulty demonstrating whether the immediate goals and objectives of the travel had been achieved.

Chapter 9

Funding Provided by Trade New Zealand

- 9.1 Trade New Zealand⁴⁷ entered into one funding arrangement with a group of organisations associated with Mrs Awatere Huata after her election as an MP in 1996.

The Funding Programme

- 9.2 The Export Network Fund is used to assist clusters of three or more businesses to take advantage of opportunities in other countries that have the potential to lead to sustainable foreign exchange earnings. It provides funding of up to 50% of costs incurred in the investigation and development these opportunities. The funding is obtained by submitting a funding claim form supported by invoices and receipts.

The Process By Which the Funding Decisions Were Made

The Business Plan

- 9.3 On 24 May 2001, Trade New Zealand received a business plan from the Aotearoa Maori Producers Export Network (AMP Export Network). The plan, dated 23 May 2001, identified the Project Manager for the AMP Export Network as Mr Huata.
- 9.4 The participating organisations in the AMP Export Network were:

Organisation Name	Represented by
Te Huawhenua Trust Board	Jack Goldsmith
Te Runanga o Ngai Tane	Charlie Hamlin
Aotearoa Marine Limited	Gary Dyall
Aotearoa Horticulture Limited	Wi Huata

- 9.5 We were told that the Pipi Foundation Trust was also proposed as part of the AMP Export Network, but it was excluded on the basis that it was not an export business and (therefore) did not meet the criteria for funding.

⁴⁷ Trade New Zealand was merged with Industry New Zealand with effect from 1 July 2003 to form New Zealand Trade and Enterprise.

- 9.6 The business plan provided a brief sketch of each entity, its current export focus, and future plans, as follows:

Te Huawhenua Trust Board owns orchards – currently exports Pipfruit and Stonefruit. Wanting to establish export markets under the Aotearoa Brand.

Te Runanga o Ngai Tane – Currently exports Pipfruit, wanting to establish export markets under the Aotearoa Brand.

Aotearoa Marine Limited, Production yards are based in Tauranga, specialises in 50-foot luxury launches, the Corinthian and the Royale – This trip aims to set up export franchises for Asia.

Aotearoa Horticulture Limited owns orchards – Looking to export Pip and Stonefruit. Wanting to establish export markets for Maori branded produce from 23 other orchardists as well.

- 9.7 The business plan referred to the AMP Export Network organisations having had dealings with major customers Fyffe’s and Guimarra’s – which were said to be “ready for Maori branded apples”. Under the heading “Significant Achievements Already Completed”, the business plan claimed –

Significant markets established in the United Kingdom, Scandinavia, Hawaii, USA.

- 9.8 Under the heading “Objectives”, it was estimated that foreign exchange sales in \$NZ would be as follows –

Year ended	March 2002	March 2003	March 2004
	\$000	\$000	\$000
<i>Te Huawhenua Trust Board – Apples</i>	820	1,000	1,200
<i>Te Runanga o Ngai Tane – Apples</i>	1,250	1,500	1,750
<i>Aotearoa Horticulture Limited – Apples</i>	1,670	8,000	8,500
<i>Aotearoa Marine Limited – Launches</i>	10,000	10,000	10,000
Total	13,740	20,500	21,450

- 9.9 The business plan requested funding for 50% of costs for:

	\$
Travel and accommodation	6,750
Trade booth in Yantai	750
Printing promotional EN brochures	1,500
In-market transport	<u>1,000</u>
	\$10,000

9.10 Attached to the business plan were letters from the organisations participating in the AMP Export Network, which read as follows –

[Te Huawhenua Trust Board letterhead]

I confirm that I, Jack Goldsmith is committed to working with members of the Aotearoa Maori Producers Network to grow exports in China and Malaysia. The nominated representatives for the Te Huawhenua Trust Board to represent us are Tawa Huata (Trustee) and Wi Huata (Trustee).

[Signed] Jack Goldsmith – Chairman

[Te Runanga o Ngai Tane Letterhead]

I am the Chairman of Te Runanga o Ngai Tane an incorporation that owns several pip fruit orchards. The Trustees have full support for this visit to China by the Maori business network. Our investment is for the purpose of securing export orders for our apples now that deregulation is here. Donna Huata is our representative for this Kaupapa and we will be very happy to support her in every way. The Runanga has the funds to pay the other 50% costs of her trip.

[Signed] Charlie Hamlin – Chairman

[Aotearoa Marine Limited – not on letterhead and address given was – 47 Stoke Street, Newtown, Wellington]

I confirm that I, Gary Robert Dyll is committed to working with members of the Aotearoa Maori Producers Network to grow exports in China and Malaysia. The nominated representatives for Aotearoa Marine Limited to represent us are Wi Huata and myself.

[Signed] Gary Dyll, Director, Aotearoa Marine Limited.

[Aotearoa Horticulture Limited – Letterhead]

I confirm that I, Wi Te Tau Huata is committed to working with members of the Aotearoa Maori Producers Network to grow exports in China and Malaysia. The nominated representatives for Aotearoa Horticulture Limited to represent us are Wi Huata and Dave Porteous (Company Solicitor).

[Signed] Wi Huata, Managing Director

- 9.11 We note from other correspondence with TPK and CEG around this period that Mr Huata referred to himself as the Chairperson of both Te Huawhenua Trust Board and Te Runanga o Ngai Tane.
- 9.12 The Trade New Zealand *Export Networks – Assessment and Approval Form* prepared by the former Account Manager scored the business plan as 76 out of a possible 100 points. This assessment was reviewed and approved by the Budget Centre Manager and Team Leader on 25 May 2001.
- 9.13 A letter of agreement, dated 25 May 2001, was addressed to the Aotearoa Maori Producers Export Network c/o Mr Huata, and the acknowledgement of it was signed by Charlie Hamlin, Wi Huata, Gary Dyall, and Jack Goldsmith as representatives of the AMP Export Network organisations.
- 9.14 Funding of up to \$12,500 for 50% of the costs of a marketing trip to Malaysia and China was approved.

Assessing the Business Plan

- 9.15 We discussed the process for assessing the business plan with the Team Leader. We concentrated on the procedures followed by Trade New Zealand to validate and assess the reasonableness of the information contained in the business plan. We asked the following questions.
- 9.16 **What enquiries were made to substantiate the information in the Aotearoa Maori Producers Export Network business plan?**
- 9.17 Trade New Zealand's response was that –

In preparation of the business plan the Account Manager responsible for the account had two meetings with Wi Huata who was pulling together the proposal for the network. At these meetings the proposal was discussed together with the possible role Trade New Zealand could play. The previous Account Manager was familiar with Wi Huata and Aotearoa Horticulture Limited, and had attended a launch of their indigenous brand in March 2000, at which the Minister for Trade Negotiations (Hon Jim Sutton) spoke. The current Account Manager had also attended a meeting in Hastings in November 2000 on Aotearoa Horticulture and the brand where AHL had brought over international buyers. The Minister of Maori Affairs (Hon. Parekura Horomia) spoke at this meeting.

- 9.18 **Were any background checks done on the nature of business conducted by the four entities in the Export Network?**

9.19 Trade New Zealand's response was that –

As discussed above AHL was a well known export company that was looking at indigenous branding and had received quite a lot of publicity. We required the businesses that Wi Huata was working with to provide brief profiles on themselves and to also provide letters of intent confirming that they were indeed representatives of these companies and that they were committed to working as members of this network.

9.20 **Did Trade New Zealand enquire whether any funding was being provided by any other public entities in relation to the expenditure to be incurred?**

9.21 Trade New Zealand's response was that –

We made it clear our approach which is not to fund costs that we cover that have already been funded through other agencies. A 50% contribution by participating companies shows commitment and there is more incentive to succeed where the businesses funds are at risk also.

The acknowledgement in the letter of intent, signed by Charlie Hamlin of Te Runanga o Ngai Tane, indicates that this aspect was discussed with the organisations.

Did the Business Plan Meet the Funding Criteria?

9.22 We are satisfied that the business plan was consistent with the Export Network Fund criteria.

Was the Assessment of the Business Plan Sound?

9.23 The business plan assessment process was poor.

9.24 We were told that Trade New Zealand's account manager had worked with Aotearoa Horticulture Limited, had visited its premises, and had a good knowledge of its operations. He had also met with company representatives on various occasions, but no notes of those meetings were on file.

9.25 It appears, therefore, that Trade New Zealand concentrated heavily on Aotearoa Horticulture Limited and undertook limited independent research on the backgrounds of the other organisations. For example, when we asked for copies of the profiles provided by the other organisations, we were referred to the business plan.

- 9.26 We would have expected Trade New Zealand to request copies of the financial statements and constitutions of each of the organisations in the AMP Export Network. We also consider that Trade New Zealand should have communicated directly with the signatories to the letters of intent.
- 9.27 We were surprised that the letter of agreement did not specifically require confirmation of the signatories' understanding that no other funding in relation to the marketing trip had been sought from other agencies.

Good Practice

- 9.28 In our view, good practice required Trade New Zealand to have undertaken a basic level of independent substantiation of the information in the business plan.
- 9.29 We also believe that Trade New Zealand's policies and procedure guidelines should be updated to better address the risk of double-funding.

Conclusion

- 9.30 In our view, if the business plan information had been soundly assessed, Trade New Zealand would have sought more information from each of the organisations in the AMP Export Network before contemplating providing any funding support.

Contract Management and Monitoring

Funding Claim

- 9.31 On 3 July 2001, the AMP Export Network submitted a claim, signed by Mr Huata, directing that payment should be made to Aotearoa Horticulture Limited. The claim was made up of the following costs:

<i>Particulars</i>	<i>Amount (GST inclusive)</i>
Invoice from House of Travel, dated 5 June 2001, for travel and accommodation for China and Malaysia, billed to Aotearoa Horticulture Limited	9,769.00
Invoice from House of Travel, dated 5 June 2001, for travel and accommodation for China, billed to Aotearoa Marine Limited	7,669.00
Invoice from CHB Print for printing company profiles	4,476.38
Invoice from Brittin Canvas for a company banner	405.00
Total	\$22,319.38
Amount claimed @ 50%	\$11,159.69

- 9.32 The Account Manager and Budget Centre Manager approved the claim.

- 9.33 We discussed with Trade New Zealand the contract management and monitoring process that had been followed. We asked the following questions:
- 9.34 **What, if any, information has Trade New Zealand been provided with to measure the success of the marketing trip in terms of the objectives in the business plan?**
- 9.35 Trade New Zealand's response was that –
- On the network's return from the mission they gave a debrief to the Trade New Zealand Account Manager on the mission and the progress they had made toward achieving these objectives. The debrief was a verbal debrief the Account Manager who did it unfortunately did not do a file note following the meeting.*
- 9.36 We further enquired whether any of Trade New Zealand's Posts in China were involved in the AMP Export Network visit. It appears that the cities visited by the Network did not have a Trade New Zealand Post and, consequently, there was no direct involvement.
- 9.37 **Has Trade New Zealand received any reports on foreign exchange results achieved by the AMP Export Network?**
- 9.38 The funding agreement terms and conditions require –
- All members of the Aotearoa Maori Producers Export Network to report foreign exchange results...*
- 9.39 Trade New Zealand told us that no reporting had been received to date from any of the AMP Export Network organisations.
- 9.40 We discussed with Trade New Zealand what follow up it carries out with organisations and were told –
- Account Managers have an incentive component attached to their salary which has a significant foreign exchange component hence the incentive to follow up. So this is normal practice within TNZ.*
- 9.41 Trade New Zealand was not able to provide any evidence of follow-up with the organisations in relation to non-compliance with the letter of agreement's reporting requirements. Trade New Zealand told us that the former account manager confirmed that a foreign exchange template was sent out to Aotearoa Horticulture Limited and the a follow-up call was made.
- 9.42 Mr Huata said that he was unaware of the reporting requirement and could recall no follow-up by Trade New Zealand.

Good Practice

- 9.43 In our view, good practice required a properly documented debrief of the marketing trip achievements. We would have expected that without a written debrief Trade New Zealand would have paid no funding. This should not have been an unrealistic expectation in this case because Te Puni Kokiri had provided funding of \$2,500 (GST-exclusive) for the preparation of such a report (contract number 3522 – see Appendix 2 on page 146).
- 9.44 We would have expected also that Trade New Zealand had a formalised and documented procedure to monitor and follow up non-compliance with the terms and conditions in the letter of agreement. We note that this was a requirement of Trade New Zealand’s policy guidelines.

Conclusion

- 9.45 The effectiveness of Trade New Zealand’s contract management and monitoring was poor.
- 9.46 Based on our discussions with Trade New Zealand, it has no documented evidence of the success or otherwise of the marketing trip and (therefore) would have difficulty demonstrating the effectiveness of its funding of AMP Export Network.

Appendix 1

Terms of Reference for the Inquiry

The Auditor-General has been asked to investigate whether Donna Awatere Huata MP had some involvement in alleged inappropriate spending of public money paid to the Pipi Foundation for a children's reading programme. The allegations include reference to public money paid to other organisations with which Mrs Awatere Huata is associated and/or in which she has an interest (financial or otherwise, and either directly or through near relatives).

The Auditor-General will co-operate with any investigation by other authorities of allegations concerning the Pipi Foundation or any other private sector organisation. However the Auditor-General is not the auditor of those organisations.

The allegations raise wider questions about the integrity of the arrangements under which taxpayer funds have been paid (by any public entities) to the organisations with which Mrs Awatere Huata is associated and/or in which she has an interest. The Auditor-General has therefore decided, in the public interest, to conduct an inquiry into matters concerning that funding. The inquiry will:

1. Identify all funding arrangements (whether involving contract or grant) between public entities and the organisations with which Mrs Awatere Huata is associated and/or in which she has an interest, and the purpose of the funding in each instance;
2. Examine the process by which the funding decision in each case was made, including whether a contestable process was or ought reasonably to have been used;
3. Review in each case the appropriateness of the arrangements for the funding entity to monitor the implementation and performance of the contract, or the use of the grant, as the case may be, and the effectiveness of that monitoring; and
4. Identify in each case whether the organisation concerned appears to have performed and/or complied with its contractual obligations and/or any grant conditions.

The inquiry will be conducted under sections 16 and 18 of the Public Audit Act 2001.

The Auditor-General will report to the House of Representatives, under sections 20 and 21 of the Public Audit Act, on the above terms of reference and such other matters arising from the inquiry as the Auditor-General considers it desirable to report on.

Appendix 2

Details of the Funding Arrangements

Economic Development Initiatives

There are a number of linkages between the funding arrangements entered into between Te Huawhenua Trust Board, Te Runanga o Ngai Tane and Aotearoa Horticulture Limited and the funding agencies (primarily TPK and CEG). Some of these funding arrangements appear to have overlapping objectives and deliverables.

- ▲ TPK – contract number 737 – 24 December 1996 – \$20,250

This was a contract for services with Te Huawhenua Trust Board to fund consultation with the Wairoa District Council and some iwi to determine whether they would participate in a project to develop under utilised Maori land within the boundaries of the Wairoa territorial local authority.

- ▲ CEG – contract number 4557 – 1 April 1997 – \$40,000

This was a grant to Te Huawhenua Trust Board for a project entitled “Wairoa Land Business Employment –Buy-in” with the following key objectives:

- ▲ *A person will be employed to assist with this development in the Wairoa district.*
- ▲ *Planning assistance will be provided for up to 20 Land Trusts and/or Land Owners on the establishment of the horticulture industry in the Wairoa district.*
- ▲ *Up to 10 strategic/business plans for Land Trusts and/or Land Owners in the Wairoa district will have been produced.*
- ▲ *Advice and assistance, when necessary, will have been provided to Land Trusts and Land Owners regarding Maori Land Court procedures pertinent to developing individual blocks of land.*
- ▲ *A training programme will have been facilitated for Land Trusts and Land Owners in the Wairoa district.*

- ▲ TPK – contract number 750 – 30 April 1997 – \$13,500

This was a contract for services with Te Huawhenua Trust Board to co-ordinate the delivery of services available by organisations (including Crown Agencies), which may be able to assist in the development of under-utilised Maori Land.

- ▲ CEG – contract number 4646 – 12 May 1997 – \$30,000

CEG was unable to locate the contract file or a copy of the letter of agreement. However, based on CEG's records it appears that this was a grant to Te Huawhenua Trust Board for preparing a Technical Feasibility Study and Marketing Plan for under utilised Maori land in the Wairoa district.

- ▲ CEG – contract number 52105 – 1 September 1998 – \$67,500

This was a grant for a project entitled “Wairoa Land Development Project” with the following key objectives:

- *A key worker be employed to facilitate on up to 17 local land blocks.*
- *Appropriate management structures will have been put in place for up to 17 land blocks that meet the approval of the Maori Land Court.*
- *Up to 17 landholders will be assisted to develop Business and/or Action Plans.*
- *Specialist monitoring and evaluation services will be provided to up to 17 land blocks to assist them to successfully implement their plans.*

- ▲ TPK – contract number 1296 – 1 March 1999 – \$120,000

This was a contract for services with Te Runanga o Ngai Tane relating to progressing the Wairoa Horticultural Strategy. The specific services to be provided were as follows:

- i. Identify Optimum Horticultural soil/climatic zones.*
- ii. Identify Maori land blocks within those zones identified above (within the Wairoa Local Territorial Authority) and identify owners (and interested parties) via the Purchaser's database, Maori Land Court, the Maori Trustee and local knowledge.*
- iii. Establish whether there are appropriate Management structures in place for the identified Maori land blocks. If there is then the task is to secure the agreement of the trustees/committee of management for the land to be developed to maximise returns. If there is no structure in place then the task is to facilitate that development.*
- iv. Give a presentation of the Wairoa Horticultural Strategy to the owners and interested parties.*
- v. Facilitate the election of trustees for the identified land blocks.*

- vi. *Ensure the processes in terms of compliance with the Maori Land Act and the filing of the relevant documentation in the Maori Land Court are followed.*
- vii. *Prepare all the necessary documentation, including trust deeds or constitutions, to the establishment of legal structures of the administration of the land for the identified land blocks.*
- viii. *Consult with government agencies and private sector agencies to co-ordinate the services they could provide to Wairoa to assist in the pre commercial and commercial stages of the Wairoa Horticultural Strategy and or otherwise investigate appropriate mainstream finance sources that could facilitate land development projects within the boundaries of the Wairoa Territorial Local Authority.*
- ix. *Provide a draft written report by 25 June 1999 setting out the outcomes of the above listed services, including:*
 - ▲ *A description of the Wairoa Horticultural Strategy and the pilot to be implemented.*
 - ▲ *Identify the working relationships in the Wairoa area to demonstrate the local level responsiveness to the Wairoa Horticultural Strategy and the pilot.*
 - ▲ *The feasibility of Wairoa as a major horticultural centre.*
 - ▲ *The readiness of Maori land owners to participate in horticulture.*
 - ▲ *The suitability of the land blocks for horticultural development.*
 - ▲ *The barriers to Government and private sector agencies in assisting Wairoa to becoming a major horticultural centre.*
 - ▲ *The ability of the Maori land owners to access mainstream advice and services relating to Maori land utilisation including, funding, management and structural issues.*
 - ▲ *The implications of this research for other regions.*

▲ Poutama Trust – 20 May 2000 – \$3,262

This was a business development grant to Aotearoa Horticulture Limited to fund 50% of the costs of travel to China to investigate the feasibility of a joint venture with Chinese horticultural producers.

▲ CEG – contract number 55226 – 16 June 2000 – \$90,000

This was a grant to Te Huawhenua Trust Board for a project entitled “Orchard Project 2005” with the following key objectives:

- *Prepare a baseline report for each landholder group with information about each land block.*
- *Facilitate funding applications for feasibility studies for identified land blocks.*
- *Report on options for those land blocks that don't proceed with feasibility studies.*
- *Present feasibility studies to landowners and proceed with implementation of development.*
- *Report on the implementation phase and identify steps to be taken over next two years and financing options.*
- *Report on site visits and landowner hui.*
- *Investigate financing options:*
 - *Aotearoa Horticulture Limited*
 - *Foreign investment*
 - *Government*
 - *Other.*
- *Report on retail markets.*
- *Report on wholesale markets.*
- *Research export markets.*
- *Report of processors requirements.*

▲ TPK – contract numbers 1909/1910 – 20 September 2000 – \$45,000

This arrangement actually comprised two separate contracts for services with Te Runanga o Ngai Tane (1909 and 1910). TPK was able to provide only a copy of contract number 1910, which was a contract for services to develop a strategic producer plan. This was to:

- *identify the products of Maori producers being a preferred product for an export market under an Aotearoa Brand*
- *develop of a quantity and quality benchmark process for Maori producers of products identified for an export market*

- *interview current Maori producers with a view to determining current production and current markets for products.*

TPK was unable to provide any information in relation to what contract 1909 was for.

▲ TPK – contract number 2376 – 20 February 2001 – \$47,500

This was a capacity building grant to Te Huawhenua Trust Board with the key objectives being:

- *to re-brand Wairoa as the “Summer Fruit Capital of New Zealand”*
- *to build a network of Maori business people with a unique market position*
- *to increase the value of produce and products by marketing under an indigenous brand.*

▲ CEG – contract number 57842 – 1 May 2001 – \$2,000

This was a mini-grant to Te Huawhenua Trust Board entitled “China/Malaysia Investment Strategy”. This grant supported the Board’s “Orchard Project 2005” by ostensibly funding the development of a report and strategy document.

▲ Trade New Zealand – 23 May 2001 – \$11,160

This was an export development grant with the Aotearoa Maori Producers Export Network, headed by Mr Huata. This was a contribution of 50% of the costs of travel, accommodation and in market transport costs associated with the Network’s trip to China. The organisations that made up the network were:

- Te Huawhenua Trust Board
- Te Runanga o Ngai Tane
- Aotearoa Horticulture Limited
- Aotearoa Marine Limited.

Trade New Zealand advised that the Pipi Foundation was also originally proposed as part of the network but was excluded on the basis that it was not an export-orientated entity.

▲ TPK – contract number 3522 – 5 June 2001 – \$2,812

This was a contract for services with Aotearoa Horticulture Limited in respect of the visits to China and Malaysia for promotion of “your” new indigenous brand apples and investment in those markets. A requirement was that a report be provided outlining the results of the trip on:

- *the opportunities exploited*

- *immediate outcomes achieved*
- *expected future outcomes and*
- *how you intend to further progress.*

▲ PoutamaTrust –10 September 2001 – \$4,839

This was a business development grant to THTB to fund 50% of the costs of travel to China to explore and develop the relationship with Chinese visitors to New Zealand in 1999. In particular the objectives were:

- *to seek investment to buy more orchards and develop more land*
- *to seek export markets and earning export dollars on apples*
- *to follow through on boat sales order with Yantai Tourism Bureau.*

▲ TPK – contract number 3932 – 9 October 2001 – \$112,500

This was a capacity building grant to Te Huawhenua Trust Board to contract a special advisor, Wi Huata, to secure funding for establishment of a national Maori producer network.

▲ CEG – contract number 59133 – 1 December 2001 – \$119,450

This was a grant to Te Huawhenua Trust Board for a project entitled “Maori Land Producers Business Network”. The key objectives of this project were:

- *Conduct three Ngati Kahungunu Economic Summits.*
- *Conduct six specific field days.*
- *Promote a “Maori Perspective” around selected horticultural events.*
- *Promote Maori Branded Products “Aotearoa Brand”, etc.*
- *Complete the development of Maori Brand Network and database and develop Maori Brand Strategy.*
- *Establish a Maori Brand website.*
- *Provide assistance to at least 12 owners/companies with Maori Brands and identify new market opportunities.*

▲ TPK – contract number 5254 – 29 June 2002 – \$30,000

This was a capacity building grant to Te Huawhenua Trust Board to fund the preparation of two reports on the outcomes of two economic summits in the Heretaunga and Wairoa regions.

▲ TPK – contract number 5312 – 30 July 2002 – \$112,500

This was a capacity building grant to Te Huawhenua Trust Board to provide services to promote Ngati Kahungunu’s economic development by:

- *providing co-ordination and facilitation of events that support Ngati Kahungunu economic development*
- *organising and hosting the Ngati Kahungunu Ki Wairarapa Economic Summit by July 2002*
- *supporting and assisting Hawkes Bay Maori Tourism stakeholders to promote Maori tourism by September 2002*
- *organising and hosting a Heretaunga summit focusing on business opportunities for Ngati Kahungunu by February 2003*
- *identifying and developing investment strategies for Ngati Kahungunu*
- *identifying and developing tax strategies to accelerate Ngati Kahungunu development.*

▲ CEG – contract number 60597 – 23 September 2002 – \$146,250

This was a grant to Te Huawhenua Trust Board entitled “Totally Hawkes Bay – CEO Project” with the following key objectives:

- *Establish a Community Employment Organisation.*
- *Create full-time unsubsidised employment for 15 unemployed people.*
- *Improve the organisation’s capacity and capability to become self sufficient:*
 - *Centralising the administration and financial systems.*
 - *Delivering staff training in administration and financial control management.*
 - *Establish two joint venture partnerships to support the enterprise to self-sufficiency.*
- *Generate at least \$2.0 million in Rewena bread sales or minimum of 2,000 loaves per week.*
- *Develop and implement a Marketing Strategy to promote Rewena Bread.*

- *Complete staff training involved in bakery areas of hospitality, retail, marketing, hygiene, OSH, food preparation and quality control.*
- *Ensure compliance with CEG's two-month reporting form.*
- *By 31 August 2003 – submit a business plan for year ending 30 September 2004 that will support the CEO second year investment (if required).*
- *Submit financial statements for the first 10 months for the period ending 31 July 2003.*

▲ CEG – contract number 60546 – October 2002 – \$48,000

This was a grant to Te Runanga o Ngai Tane for a project called 'Biz Rongomaiwahine – Ngati Kahungunu Women in Business'. The key objectives for this project were as follows:

- ▲ *Develop a database of at least 20 existing Kahungunu women in business.*
- ▲ *Establish a network of Kahungunu women developers and mentors.*
- ▲ *At least 100 Ngati Kahungunu women will attend the Maori Women's Economic Summit.*
- ▲ *At least 30 Ngati Kahungunu women will have commenced development of their individual unique business opportunity.*
- ▲ *A series of Maori women's workshops.*
- ▲ *A joint venture conduit will be provided.*
- ▲ *Ten Ngati Kahungunu women will be assisted with research and development feasibility and business planning advice.*
- ▲ *Fifty Maori women will have been assisted into business.*

Educational Initiatives

These funding arrangements were all related to the *Four Minute Reading Programme* run by the Pipi Foundation Trust.

▲ Ministry of Education contract and roll-overs – \$766,192

These were contracts for services designed to provide the MOE with an evaluation of the *Four Minute Reading Programme* in order to determine whether the *Programme* was an effective literacy intervention. It was essentially agreed that, subject to satisfactory performance, this funding would be available for three years. The evaluation would assess whether it

would be worthwhile to extend the *Programme* and if so further consultation would take place with the Minister of Education at that stage.

The third funding arrangement was entered into by CEG, on 3 August 2001. This was a grant for a project called the 'Community Reading Project'. The key objectives of the project were to:

- *appoint a key worker to co-ordinate and promote the Pipi Foundation reading programme to the community; encouraging parents and their children to read*
- *co-ordinate and train at least 30 reading tutors to support the delivery of the reading programme to the local community*
- *encourage and assist at least 50 unemployed parents and their families to participate in the reading programme*
- *identify at least six of the trained reading tutors for further training as teachers or as trainees for other employment opportunities*
- *identify and establish further networks to source alternative funding avenues to ensure the continuation of the project within the community.*

The key distinction between this funding arrangement and the MOE contact was that this was specifically working with the community as opposed to in the school environment.

▲ CEG – contract number 57896 – 10 July 2001 – \$40,000

This was a grant for a project called the 'Community Reading Project'. The key objectives of the project were to:

- *appoint a key worker to co-ordinate and promote the Pipi Foundation reading programme to the community; encouraging parents and their children to read*
- *co-ordinate and train at least 30 reading tutors to support the delivery of the reading programme to the local community*
- *encourage and assist at least 50 unemployed parents and their families to participate in the reading programme*
- *identify at least six of the trained reading tutors for further training as teachers or as trainees for other employment opportunities*
- *identify and establish further networks to source alternative funding avenues to ensure the continuation of the project within the community.*

The key distinction between this funding arrangement and the MOE contact was that this was specifically working with the community as opposed to in the school environment.

- ▲ TPK – contract number 3778 – 14 August 2001 – \$30,000

This was a capacity building grant to improve the access of disadvantaged Maori tamariki and parents to educational tools and improve reading abilities and well-being. The key objectives of the funding were:

- *to engage a key worker to oversee development of plans and promote the groups reading initiatives in schools*
- *develop a marketing plan, strategic plan and business plan for the Pipi Foundation Trust.*

- ▲ CEG – contract number 59812 – 17 May 2002 – \$2,000

This was a mini-grant for the production of a video of Ngati Kahungunu Economic Summit series.

Fashion Industry Initiatives

These funding arrangements were all in relation to the Young Designers Scholarship Trust. Mrs Donna Awatere Huata was the settlor of the Trust and for a period of time was a Trustee. Mrs Huata's daughter Hinemoa Awatere has also had a close association with the Trust as Chairperson and Trustee.

- ▲ TPK – contract number 219 – 17 April 2002 – \$10,000

This was a Rangatiratanga grant to assist with funding scholarships for young designers to travel to Europe and Australia.

- ▲ Industry New Zealand – May 2002 – \$6,000

This was a sponsorship grant to assist the Trust with the running of a nationwide competition for young designers.

- ▲ CEG – contract number 59962 – 6 June 2002 – \$1,100

This was a grant to fund research into the Auckland Fashion Incubator with a view to facilitating the establishment of a Wellington Fashion Incubator project by the Young Designers Scholarship Trust. The grant funded return travel costs to Auckland.

- ▲ CEG – contract number 60467 – 10 June 2002 – \$49,700

This was a grant to fund the appointment of an Incubator Co-ordinator for the Wellington project. The co-ordinator was to facilitate the establishment of a business plan, promote the project and seek alternative funding sources.

- ▲ Poutama Trust – 1 August 2002 – \$5,625

This was a business development grant to assist with the holding of three fashion shows. PT has advised us that this grant was in the nature of a sponsorship arrangement.

- ▲ Industry New Zealand – September 2002 – \$3,714

INZ reimbursed part of the travel costs associated with the winner of the Young Designers Scholarship visits to European fashion production houses.

INZ also mentioned that the Young Designers Scholarship Trust had applied for Enterprise Award Scheme funding in November 2002 but that the application was declined.