Public Service Commission
Te Kawa Mataaho

Providing information during government formation negotiations: FAQs

These FAQs have been developed to support agencies that may be required to respond to requests for information from political parties for the purposes of negotiations to form a government.

Standards and guidance

Q: Where can I find the Public Service Commissioner's expectations on providing information to political parties during negotiations to form a government?

A: The Commissioner has issued Standards: Providing information to political parties during negotiations to form a government under clause 20, Schedule 3 of the Public Service Act 2020. These are mandatory for public service agencies and functional chief executives, and all State sector agencies are expected to observe the standards.

Q: What preparation should agencies do to plan for receiving a request for information?

A: The Public Service Commission Te Kawa Mataaho (the Commission) recommends that agencies:

- Identify a core team to respond to requests.
- Think about how they will manage information security.
- Think about what requests they may need to respond to.

Roles and responsibilities

Q: What is the Negotiations Senior Officials Committee (NSOC)?

A: The Negotiations Senior Officials Committee (NSOC) has been formed to support the Commission in its role of coordinating requests for information from political parties. The members of the Committee are:

- Hugo Vitalis (Chair), Deputy Chief Executive Strategy, Policy and Integrity, Public Service Commission.
- Rachel Hayward, Secretary of the Cabinet and Clerk of the Executive Council, Department of the Prime Minister and Cabinet.

- Janine Smith, Deputy Chief Executive, Policy and Delivery Unit, Department of the Prime Minister and Cabinet.
- Chris Bunny, Deputy Secretary Budget and Fiscal Performance, the Treasury.

Q: What are the roles of the Commission and NSOC?

A: The Commission coordinates the process of receiving, allocating and checking requests for information from political parties. NSOC assists the Public Service Commissioner (or his delegate) with making decisions about allocation and checking that proposed responses meet the requirements in the Standards.

Q: What is the role of the Treasury in developing responses?

A: The Treasury supports agencies with any information requests that involve policy costings. The Treasury's role is to ensure that costings are consistent and reliable across the public service. The Treasury does this by working with agencies when the response is being developed. Read the Treasury's guidance on costing political party policies.

Process for responding

Q: What is the process for receiving and responding to a request?

A: At a high level, the process is as follows:

1. The Commission receives information requests from political parties and confirms these meet the requirements of the Standards.
2. The Commission and NSOC determine which agency is best placed to respond to the request.
3. The relevant agency drafts the response, involving the Treasury in any costings.
4. The agency chief executive approves the response and provides it to the Commission for permission to release.
5. The Commission and NSOC confirm the response appropriately provides the information requested by the political party and meets the requirements in the Standards (but do not check the accuracy of the content).
6. The agency chief executive sends the response to the political party.

Q: Will agencies always get a full 48 hours to respond to requests?

A: No, agencies may have less than 48 hours to respond to some requests. The Standards set out that all information requests will be responded to within 48 hours, unless otherwise agreed. Some time is required at the start of the process for the Commission and NSOC to confirm that the request meets the requirements of the Standards.

Q: Who is responsible for managing responses that involve a monitored entity and a monitoring department?

A: The Commission will send the request to the monitoring department, which will then contact the monitored entity. This is because the monitoring department will already have relationships and contacts in place. Agencies are responsible for making sure the entities they monitor understand the process and requirements in the Standards, including the requirement for confidentiality and discretion.

Q: How many people can agencies involve in responding to information requests?

A: There is no set number of people who can be involved in responding to an information request, but the Standards advise:

> *"A request for agency information from a negotiating political party will be highly sensitive and require both judgement and discretion, and therefore should only involve a limited number of designated staff."*

While keeping to a limited number, it is acceptable to involve an additional person or people to quality-assure responses, if required.

Agencies should consider key person risk when planning who they will involve in responding to information requests. Agencies need the capacity to respond to requests even if a key subject-matter expert is unavailable.

Q: What information should be included in responses?

A: The Standards set out what information to include in responses:

> ***Information*** *includes information held by the agency and analysis completed by the agency, such as:*
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> - *briefings on existing government policy;*
> - *information relating to and analysis of a party's proposals, including costings;*
> - *discussions on the implications of proposed policies; and*
> - *discussions on the effects of modifying or combining policies and the details of their implementation,*
>
> *but excludes the following categories of information:*
>
> - *policy advice or recommendations on the design, development or merits of a party's proposed policies;*

- *policy advice provided to a past or current government (this can be requested under the Official Information Act 1982 – see the section below: "Requests for information by political parties using other channels"); and*
- *personal information (unless the Commissioner otherwise approves the disclosure of that information).*

The Standards do not limit agencies to providing information that already exists. Agencies may create new information - for example, cost modelling for a new policy proposal.

Q: What is the difference between "discussions on the implications of proposed policies" and providing "policy advice"?

A: "Discussions on the implications of proposed policies" are likely to be descriptive and analytical but not evaluative. In contrast, "policy advice" is likely to comment on the merits of a proposal, make recommendations and set out a preferred course of action to help guide decision-makers.

Q: If an information request is not sufficiently detailed, how can agencies clarify it?

A: If necessary, the Commission can clarify requests with political parties. All communications with political parties, other than sending the final response, must go through the Commission. Agencies should not contact parties directly to clarify requests.

In many cases, agencies will need to develop parameters or assumptions when responding to information requests. For example, costing a new policy may require the agency to make assumptions about how the policy will work that the political party has not specified. The final response should clearly state what assumptions or parameters were used in developing the response.

Q: Should agencies provide classified or commercially sensitive information as part of a response to a request?

A: No. If agencies think classified or commercially sensitive information is necessary to answer a request, they should contact the Commission immediately to discuss options for responding.