

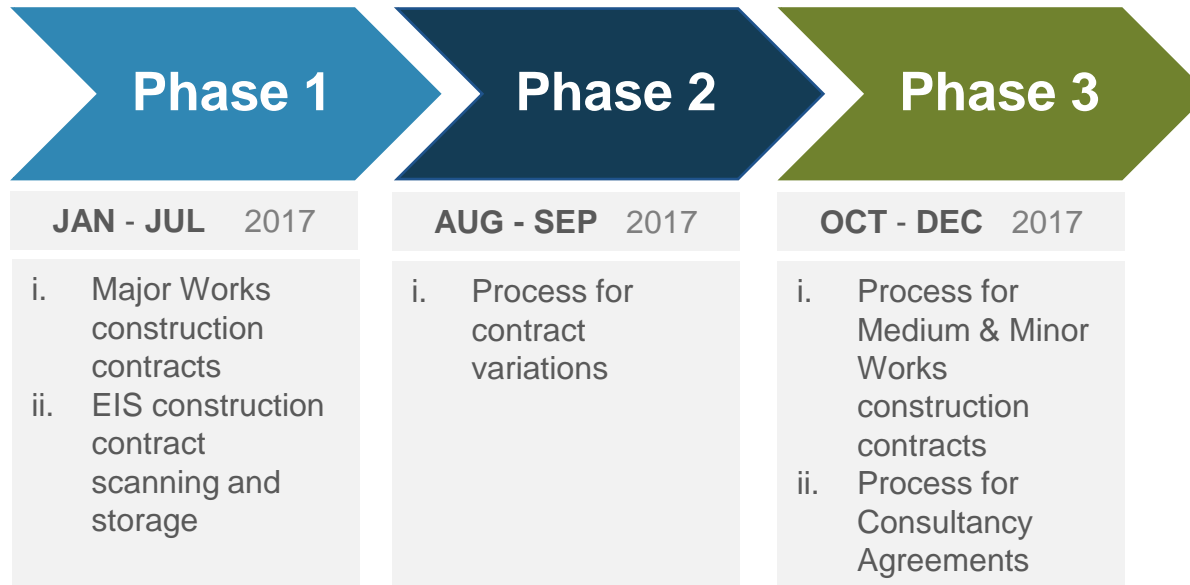
New process for Major Works construction contracts

Aligning the process throughout CW and
the regions

Author: EIS Legal and EIS Commercial Procurement

Background - Contracts Review

- The new process for Major Works contracts is one component of a wider contract process review.



- The approach for the Major Works review process will be applied to the Medium & Minor construction contracts and Consultancy Agreements.

Phase 1 Investigation



- During this investigation, EIS Legal and EIS Commercial Procurement engaged with key stakeholders including:
 - EIS Commercial Procurement
 - EIS Portfolio and Business Assurance
 - Capital Works (CW) Programme Management Office
 - CW Procurement
 - CW Programme Managers
- The new process has been approved by:
 - Deputy Head of EIS, Capital Works
 - Director, EIS Commercial Procurement
 - Director, Capital Works Northern
 - Director, Portfolio and Business Assurance

Current Challenges



- Inconsistent approach to contract administration and practices across regions.
- Unclear process for administering Letters of Intent and Bonds.
- Delivery teams, external PMs and solicitors are carrying out contract administration tasks, which is not cost efficient.
- Historic contracts cannot be located or are not centrally and securely stored.
- Limited guidance available for delivery teams around contract process.

Objectives



- Process clarity and efficiency - reducing time from first stages of contract initiation up to the execution of the contract and archiving.
- Clarity of roles – clear distribution of roles and responsibilities between different teams within EIS.
- Increase the Major Works contract understanding and capability of CW Delivery and Procurement teams.
- Improving consistency and quality of Major Works construction contracts.
- Ability of tracking executed contracts (electronic and hardcopy versions).
- Reducing time that delivery teams and external providers, spend on contract administrative tasks.
- Decreasing risk associated with the administration of construction contracts.

Key changes

For Major Works contracts process

- A clearly mapped out process for Major Works construction contracts.
- EIS Legal will draft and amend all Major Works construction contracts, including final versions.
- Contract Administrator role introduced into contract process for Capital Works Central South & Southern.

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Capital Works process for Major Works contracts

Guidance Notes

This document is not intended to replace the business processes set out by EIS and/or Capital Works. These guidance notes only cover the process of how a Major Works construction contract is initiated, drafted, compiled and stored. Sign-off procedures and additional procurement stages have been purposely excluded from this document and should not be solely referred to when procuring project works.

If you have any queries in regards to this process, please email EIS.ContractAdmin@education.govt.nz in the first instance.

Note: List of acronyms and related documents can be found on page 7.

Procurement and contract initiation stage

Step 1: The external PM (ext PM) drafts the Procurement Plan and sends the draft plan to the Delivery Manager (DM) and EIS Procurement (EIS Pro) for review and endorsement, followed by the Sponsor signing off on the final version.

Note:

- Where there is no ext PM on the project, the Procurement plan is drafted by the DM
- EIS Pro will provide guidance to the ext PM (or DM as the case may be) in relation to or whilst the Procurement Plan is being drafted.
- At this stage, the ext PM (or DM as the case may be) should begin working through the information required to complete the Contract Information Sheet (CIS) (Step 3).

Step 2: The ext PM drafts the approach to market documents (RFT or RFP, the RFX documents) and sends the draft documents to the DM and EIS Pro for review and endorsement, followed by the Sponsor signing off on the final version.

Note: Where there is no ext PM on the project, the approach to market documents are drafted by the DM.

Step 3: The ext PM completes the relevant Contract Information Sheet (CIS) (available from the Education Property Website) and sends the completed document to the DM and EIS Pro for review and endorsement. Once the CIS has been endorsed, the DM sends the completed CIS to EIS Legal and requests a draft contract to be prepared.

Note:

- If the request to draft a contract comes directly from an ext PM, EIS Legal will not process the draft until the DM has given their endorsement (the DM is responsible for ensuring that the CIS is complete and emailing the completed CIS to EIS Legal).
- Where there is no ext PM on the project, the CIS is drafted by the DM.
- When completing the CIS, the ext PM and/or DM should refer to the "Guidance Notes – Major Works Contract" found on the Education Property Website.
- The Liquidated Damages (LDs) fixed daily sum must have been endorsed by EIS Pro and approved by the DFA prior to completing the CIS (refer to "Liquidated Damages Guidance Notes" for assistance in calculating the appropriate level of LDs).
- The CIS should be completed, endorsed and sent to EIS Legal at least two full working days prior to the scheduled tender release.

Step 4: EIS Legal Secondcess prepare the contract for tender based on the information provided in the completed CIS and sends the draft contract back to the DM for release as part of the approach to market documents.

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Key changes

For Major Works contracts process

- New requirements for Letters of Intent.
- Introduction of a Contract Completion Checklist.
- Amendments to the existing Contract Execution Request form.
- Introduction of a tags table template (to be included in RFX).

Major Works Contract Completion Checklist

Note: This Checklist should be completed when compiling the Major Works Contract for signing. The purpose of this Checklist is to ensure that all steps of the contract process have been undertaken before the Contract is compiled and sent to the Contractor.

Once the Contract has been compiled, it should be sent together with this Checklist duly completed and a completed Contract Execution Request form to the Contract Administrator for a quality assurance review. The Contract Administrator will then arrange for the Contract to be signed by the Contractor and the noted Ministry representative.

If you have any queries in regards to this process, please email ES.ContractAdmin@education.govt.nz in the first instance.

Completed by:

DFA:	Contract Reference:
School:	Contract Price: \$
Project Description:	Commencement Date:
Contractor:	Completion Date:

Approvals & reviews that must have been completed before contract is compiled:

CI5 has been completed:	Yes/No	Recommendation Report has been approved:	Yes/No
ES Commercial Procurement & ES Legal have provided advice on tender tags (if any):	Yes/No/Not applicable	ES Legal has approved the final draft copy of the Contract (signed confirmation is attached):	Yes/No
Is there a Letter of Intent for this Project?	Yes/No	Contract Works Insurance has been obtained:	Yes/No

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Completed

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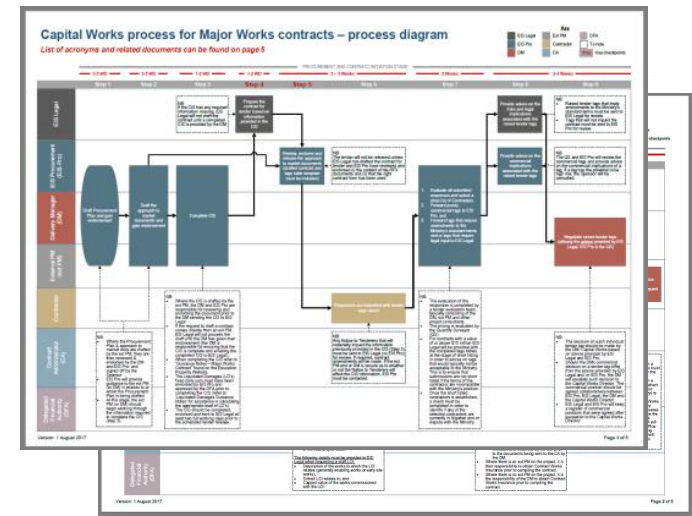
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Key changes

For contract scanning and storage

- Scanning of all Major Works construction contracts will now be outsourced to a specialised provider.
- All executed contracts will be saved in FileNet by the Contract Administrator and referenced in K2.
- All hard copy contracts will be archived with the Ministry's central Archiving facilities.
- All bond certificates will be scanned & saved in FileNet; and archived with the Ministry's central Archiving facilities.



Expectations/ timeline



- New process starts 1st August 2017.
 - Contract Administrators are ready to support delivery teams through the transition.
- New process indicative timeframes:

Stage	Indicative timings
Contract drafting (by EIS Legal Secondees)	1-2 working days
Contract compilation finalised to Contractor execution (courier)	6 working days
DFA execution (assuming AP packs are complete)	5 working days
Scanning turnaround (PDF in FileNet)	3-5 working days

What's next



- Implementation and support of Major Works construction contracts process roll out
- Phase 2: Review of process for contract variations
- Phase 3: Review of process for Medium & Minor Works contracts & Consultancy Agreements.
- **New** Contract Automation tool for 10 selected Ministry standard agreements

How to provide feedback



Process feedback:

- Review of the process will be conducted in December 2017.
- In the interim, feedback can be sent to EIS Legal.

Process questions/ clarifications:

- Process queries to be sent to EIS.ContractAdmin@education.govt.nz.

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