

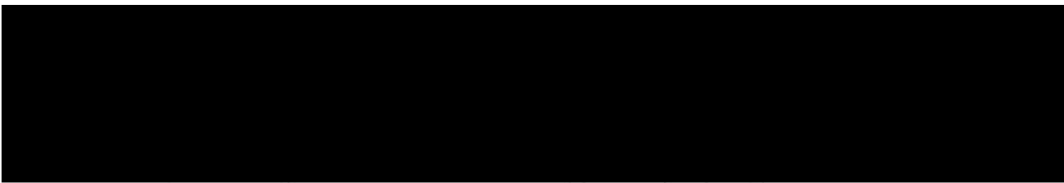
Education to terminate the contract at their convenience. The contract currently allows for discussions to take place with regard to a sponsor's 'committed costs' should this clause be invoked. However, this position is unlikely to give sufficient assurance to sponsors (in particular, Whangaruru Whenua Toopu Trust and Advanced Training Centres Ltd, who intend to make substantial property investments).

- c. **Managing public interest** – with the exception of the Villa Education Trust, all of the sponsors are concerned about the effect on their organisations (and in some cases on their existing business) of negative public reaction to the schools within their host communities.
  - d. **Agreeing the details of the performance management regime** – the sponsors are generally comfortable with the contract's focus on agreed outcomes, and the targets set in the proposed performance management system. They are seeking, however, to have the 1% at-risk payments dependent on key outcomes, rather than all of the specified performance indicators.
  - e. **Creation of new legal entity to act as sponsor** – each of the applicants is seeking to create a new legal entity (charitable trust or limited liability company in the case of Advance Training Centres Ltd) to be the sponsoring body for the PSKH. This is necessary to limit their individual liability, and to ensure that public reporting of financial information is limited to the school and does not include any other business interests of the host organisation. The process of setting up an appropriate legal body may risk delays to contract execution and further reduce the implementation period.
7. The termination for convenience clause as currently worded could be a significant stumbling block to the successful conclusion of negotiations. This is because the contract is not clear what compensation will be payable, which creates uncertainty for applicants. Given the substantial commitment associated with establishing a school, we consider that the compensation commitments associated with a termination for convenience should be more clearly laid out. We are therefore seeking your agreement to investigate amendments to the clause to more clearly specify the compensation to be paid upon termination for convenience.
8. Each of the individual sponsors also has specific issues relating to their proposal that the Ministry is working through with them. Of particular note is that four of the five preferred applicants are currently on track for completing the negotiation process. There has been detailed discussion on the performance management system over the past two weeks, but this is subject to your final approval of the system.

#### Specific issues of significance

9. The Ministry remains concerned that the Whangaruru Whenua Toopu Trust will not be able to secure the site they are seeking in the timeframe available, and this may compromise their ability to complete the negotiations. [REDACTED]

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11. At this stage, it does not appear that the Trust has the asset base or alternative financial backing to make the purchasing option a viable one. The Ministry has been working closely with the Trust to calculate how much of the PSKH property funding can be provided upfront to support the Trust's property purchase. However, this needs to be carefully balanced with the ability of the Trust to have sufficient funds over time to establish and maintain the required PSKH facilities.
12. The Ministry is also exploring the feasibility of providing the Trust with pre-fabs on a temporary basis while longer term solutions are secured. This will be dependent on the ability of the Trust to secure suitable land. The outcome of this work will become clearer over the next couple of weeks, and the Ministry will continue to report to you as new information comes to light.
13. Villa Education Trust has taken responsibility for securing facilities for themselves and for Rise UP Trust in close proximity to each other in South Auckland. The two sponsors intend to operate their schools as complementary entities (Rise UP – years 1-6 and Villa – years 7-8). It is unclear at this point whether suitable premises can be secured in the required timeframe. It is likely that Rise UP will use other temporary facilities until such time as a permanent arrangement can be put in place. The details of this are being worked through.
14. The Ministry has no other concerns at this time regarding critical issues that will prevent any of the other preferred applicants from completing the negotiation process. However, progress with each applicant is being monitored closely, and you will be advised on a weekly basis.

#### Implementation support

15. The Ministry has established an implementation project to provide the sponsors with the following support to establish their schools for opening in 2014:
- Contracting the Education Review Office (ERO) to undertake a School Readiness Review for each successful sponsor. This will include a review of the planning, processes, systems, and procedures in place for opening the school (with a report provided to the school's community) and the production of an accountability report (publicly available) after the school is open.
  - Appointing governance facilitators to support each successful sponsor and their management teams through setting up their school so it is functioning fully and effectively by opening day.
  - Managing the change within the Ministry (and with key external stakeholders) resulting from the introduction of this new type of institution.
  - Identifying, documenting, and executing the processes needed to support the implementation and ongoing operation of PSKH.
  - Managing the contracts of the selected sponsors using appropriate contract management plans.

## Contract signing and announcements

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16. It is important for sponsors to be given as much time as possible to set up the schools to be opened in 2014. This will mean minimising the time required to get the contracts agreed and signed to avoid time disadvantage for applicants. Timing issues have been discussed with each of the applicants.
17. The Ministry's preferred approach is for all of the sponsors to be announced at the same time. However, if there is likely to be a significant time gap between the successful execution of individual contracts, it may be necessary to announce the schools on a staggered timetable. We will keep you informed on this matter, and will provide a communications plan for the announcements.

