

Cabinet Paper material

Proactive release

Minister & portfolio Minister Hipkins, Education
Name of package New School Transport Service Contracts: Tagged Contingency Funding
Date considered 31 May 2021
Date of release 19 July 2021

These documents have been proactively released:

New School Transport Service Contracts: Tagged Contingency Funding
31 May 2021
Minister of Education

Cabinet Minute: CAB-21-MIN-0184
31 May 2021
Cabinet Office

Cabinet Minute: CBC-21-MIN-0054
24 May 2021
Cabinet Office

Briefing Note 1258469: Talking points for Cabinet Business Committee
19 May 2021
Ministry of Education

Material redacted

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The applicable withholding grounds under the Act are as follows:

Section 9(2)(f)(iv) to protect the confidentiality of advice tendered by Ministers of the Crown and officials

Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister's portfolio responsibilities, and is not relevant to the proactive release of this material.

You can read the Official Information Act 1982 here:

<http://legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html>

Commercial: In Confidence

Office of the Minister of Education

Chair, Cabinet Business Committee

Draw down of Budget 2021 tagged contingency funding for new school transport service contracts

Proposal

1. This paper seeks Cabinet's approval to draw down \$6 million of tagged contingency funding approved in Budget 2021 to cover the cost associated with the first six months of new contracts for school transport services, commencing in January 2022.

Executive Summary

2. The Ministry of Education (the Ministry) provides transport assistance to students where distance is a barrier to education. Daily Bus and Technology Bus services make up the largest proportion of these services.
3. Existing contracts with providers of Daily Bus and Technology Bus services are due to expire on 31 December 2021. The Ministry has been undertaking a procurement process to award new contracts that will apply for a 12-year term from January 2022. This process is now entering its final stages, with Tender One completed in December 2020 and the Ministry having identified its preferred suppliers for Tender Two. Overall, the costs of the new contracts are in line with the current cost of providing Daily Bus and Technology Bus services (as stated in paragraph 4 below).
4. School transport services are funded from an annual appropriation of \$221 million in 2020/21, \$110 million of which covers the current costs of the Daily Bus and Technology Bus services.
5. The appropriation can change as a result of movements in a cost index for public transport services maintained by the New Zealand Transport Agency, with these changes normally progressed through the baseline update process. Recent baseline updates for Daily Bus and Technology Bus services have provided uplifts to the appropriation but these have been time limited given the current procurement process for new Daily Bus and Technology Bus contracts. The time limited component in 2020/21 is \$11 million and \$5 million in 2021/22, with no uplift having been sought for out-years. As a result of the time limited component, there is a reduction of \$6 million in 2021/22 and \$11 million from 2022/23 onwards.
6. As part of Budget 2021, the \$11.849 million tagged contingency "School Transport – Contract Uplift" was approved. This contingency is intended to cover costs associated with the first six months of the new Daily Bus and Technology Bus contracts and ensure current school transport services are maintained. I was invited to report back to Cabinet to seek approval to draw down on the contingency following the outcome of the procurement process, with Cabinet authorising the Ministry to sign the new 12-year Daily Bus and Technology Bus contracts once this funding had been drawn down.
7. As the Daily Bus and Technology Bus procurement process is now entering its final stages, I am seeking Cabinet's agreement to draw down \$6 million of the tagged contingency to address the drop in the baseline funding for Daily Bus and Technology Bus services in

2021/22. This will ensure there is sufficient funding to cover the cost of the first six months of the new Daily Bus and Technology Bus contracts.

8. Immediately following Cabinet's agreement to draw down from the tagged contingency, the Ministry of Education will sign the new contracts with successful transport operators. This will ensure there is a sufficient transition period for bus operators (seven months) between the new contracts being signed and them coming into effect.
9. The proposed draw down would leave \$5.849 million in the tagged contingency. This paper asks Cabinet to agree to the Minister of Finance and Minister of Education being jointly authorised to draw down from the remaining tagged contingency to cover any costs associated with transition that may arise (such as new operators not being ready to commence services on time).
10. 9(2)(f)(iv)

Background

Transport assistance and appropriation

11. While the responsibility for getting students to and from school sits with caregivers, the Ministry provides assistance to students where distance is a barrier to education.
12. The Ministry offers assistance to over 100,000 students to get safely to and from school each day. There are a number of different transport assistance services provided by the Ministry, including:
 - Daily Bus services (taking students to and from school through services provided by commercial transport bus operators);
 - Technology Bus services (transport for year 7 and 8 students of schools that do not have technology facilities);
 - Specialised School Transport Assistance (funding for students with safety or mobility needs and requiring additional assistance);
 - Te Kura Kaupapa – Māori Medium Schools (transport funding provided to kura to arrange transport for eligible students);
 - Direct Resourcing (bulk funding provided to schools to arrange transport for eligible students); and
 - Conveyance Allowances (funding to assist with transport costs where the Ministry cannot provide a vehicle service).
13. Daily Bus and Technology Bus together represent the largest proportion of Ministry transport assistance services. The existing contracts with providers of Daily Bus and Technology Bus services are due to expire on 31 December 2021. The Ministry has been undertaking a procurement process to award new Daily Bus and Technology Bus contracts that will apply for a 12-year term from January 2022.
14. The Ministry funds all school transport services from an annual appropriation of \$221 million in 2020/21 (including baseline updates). The cost of providing Daily Bus and Technology Bus services make up approximately \$110 million per annum of the total appropriation.¹ The

¹ This excludes \$7.681 million approved in Budget 21 for the extension of existing Daily Bus and Technology Bus contracts for 2020/21 and 2021/22 (contracts were originally due to expire in December 2020 rather than December 2021).

appropriation changes with movements in the costs of providing transport services (e.g. labour costs, fuel costs) as measured through a cost index maintained by the New Zealand Transport Agency for public transport services (Global Rate Adjustments). Changes to the appropriation due to movements in these underlying costs are progressed through the baseline update process. Through the March Baseline Update in 2020, the appropriation increased from \$200 million to \$221 million for 2020/21, mainly due to a Global Rate Adjustment and an increase in demand for school transport services for students with complex needs.

15. Baseline updates for the last three financial years have been time limited, so they have not resulted in a permanent increase in the size of the annual appropriation. With respect to Daily Bus and Technology Bus services the time limited component in 2020/21 is \$11 million and \$5 million in 2021/22, no uplift was sought for out-years due to the current procurement process for Daily Bus and Technology Bus services. The time limited component means that there is a reduction of \$6 million in 2021/22 and \$11 million from 2022/23 onwards.
16. The Treasury and Ministry of Education have agreed to clarify which changes to the appropriation the Minister of Finance and Minister of Education are jointly delegated the authority to approve 9(2)(f)(iv)

Contingency funding approved in Budget 2021


17. As part of Budget 2021, the tagged contingency of \$11.849 million in 2021/22 for “School Transport – Contract Uplift” was approved (Initiative 13536) [CAB-21-MIN-0116.10]. The contingency is intended to fund the first six months of the new Daily Bus and Technology Bus contracts and ensure that current school transport services are maintained. 9(2)(f)(iv)
18. I was invited to report back to Cabinet following the outcome of the procurement process and seek approval to draw down the contingency funding, with Cabinet authorising the Ministry to sign the new 12-year Daily Bus and Technology Bus contracts once this funding had been drawn down.

Entering the final stages of procurement process

19. In November 2019, Cabinet endorsed the Ministry to be exempted from the Government Procurement Rules in order to proceed with a split procurement approach that gave sufficient recognition to the Government’s commitment to support thriving and sustainable regions by ensuring the success of existing small regional operators [CAB-19-MIN-0623 refers].
20. The procurement approach involved two tender processes:
 - Tender One: a competitive tender for small and regional operators involving the higher of 10 routes or 10 percent of routes in each region; and
 - Tender Two: placing the remaining routes out for open competitive tender.
21. Tender One has been completed and new contracts for those transport operators were awarded in December 2020. The Ministry has identified its provisional preferred suppliers for Tender Two and its next step in the procurement process is to sign contracts with successful transport operators. Based on the provisional outcomes, the number of operators will reduce from the current 61 operators to 46 operators once the new contracts are in effect – this includes 28 operators that were awarded contracts through Tender One and 18 operators that are provisionally preferred suppliers for Tender Two.

22. Overall, the costs of the new contracts for Daily Bus and Technology Bus services resulting from the procurement process are in line with the existing 2020/21 cost of these services of \$110 million.

Approval to draw down tagged contingency funding

23. As the procurement process is in its final stages, I am now seeking Cabinet's agreement to draw down \$6 million from the tagged contingency to ensure that the school transport appropriation is sufficient to address the drop in baseline funding in 2021/22 (noted in paragraph 15 above).
24. Without this draw down, there would not be sufficient funding to allow the Ministry to sign the new 12-year contracts for Daily Bus and Technology Bus services starting from January 2022. Without new contracts in place, there would be a risk that essential school transport assistance may not be provided at the currently agreed levels of service.
25. Approving the draw down by the end of May will also allow for seven months between the new contracts being signed and them taking effect. This would ensure operators have sufficient time to transition to the new services.
26. This draw down would leave \$5.849 million in the tagged contingency. With the implementation of any new contracts there are risks associated with transition. Transitional risks associated with the new school transport contracts relate to situations where the Ministry needs to undertake action to ensure there is no loss of service on day one of the new contracts or thereafter. For example, operators not being ready to commence services on time and the Ministry needing to fund short term provision of services or operators being unable to continue to provide services after the new contracts commence.
27. The Ministry is managing these risks by following best practice procurement processes, including undertaking due diligence checks on suppliers. Despite this, it is still possible that risks identified above may arise. The cost and likelihood of such risks arising will become clearer as the implementation impacts on the delivery of service are identified through the transition period to the new contracts.
28. No allowance has been factored into the proposed draw down to cover these transitional risks. If risks associated with transition eventuate, I recommend that the Minister of Finance and Minister of Education be jointly authorised to draw down from the remaining tagged contingency. 9(2)(f)(iv)
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Next steps in the procurement process

29. Immediately following Cabinet's agreement to draw down from the tagged contingency, the Ministry will sign new 12-year contracts with successful transport operators.

Financial Implications

30. The impact on the School Transport Contract Uplift tagged contingency of drawing down \$6 million is set out in the table below.

	\$m - increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
School Transport Contract Uplift					
Operating contingency balance	-	11.849	-	-	-
Draw down		(6.000)			
Total	-	5.849	-	-	-

31. 9(2)(f)(iv)

Consultation

33. The Treasury has been consulted on this paper. The Department of Prime Minister and Cabinet has been informed.

Legislative Implications

34. There are no legislative implications associated with this paper.

Gender Implications

35. There are no gender implications associated with this paper.

Impact Analysis

36. Regulatory impact analysis requirements do not apply to the proposals in this paper.

Human Rights

37. There are no human rights implications associated with this paper.

Disability

38. There are no disability implications associated with this paper.

Publicity

39. The Ministry is committed to ensuring that there is a seamless transition to the new transport services beginning in January 2022. A comprehensive engagement plan has been developed which will promote proactive communication and collaborative relationships between the Ministry, schools and transport suppliers.

Proactive Release

40. Due to the commercial sensitivity of the school transport tender process, I propose that this paper is not proactively released. I intend to release this Cabinet paper on the Ministry's website after all new contracts have been signed.

Recommendations

The Minister of Education recommends that the Committee:

1. **note** that the Ministry of Education offers assistance to students where distance is a barrier to education and most of this assistance is provided through:
 - 1.1. Daily Bus services (taking students to and from school through services provided by commercial transport bus operators), and
 - 1.2. Technology Bus services (transport for year 7 and 8 students of schools that do not have technology facilities);
2. **note** that the Ministry funds a range of transport assistance from an annual appropriation, totalling approximately \$221 million in 2020/21, with Daily Bus and Technology Bus services currently costing approximately \$110 million per annum;
3. **note** that funding used for Daily Bus and Technology Bus services will decrease by \$6 million from 2020/21 to 2021/22 and a further \$5 million from 2022/23 onwards due to a reduction in time limited funding;
4. **note** that the Ministry has undertaken the following procurement approach for new Daily Bus and Technology Bus service contracts:
 - 4.1. Tender One: a competitive tender for small and regional operators involving the higher of 10 routes or 10 percent of routes in each region, and
 - 4.2. Tender Two: placing the remaining routes out for open competitive tender;
5. **note** that on 21 April 2021 Cabinet [CAB-21-MIN-0116.01]:
 - 5.1 **agreed** to establish a tagged operating contingency of up to the amount as follows in Vote Education, to cover the first six months of the new school transport contracts commencing in January 2022 and ensure that current school transport services are maintained;

	\$m - increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
School Transport Contract Uplift – Tagged Operating Contingency	-	11.849	-	-	-
Total	-	11.849	-	-	-

- 5.2 **invited** the Minister of Education to report back to Cabinet once the outcome of the School Bus Tender was confirmed, to seek approval to drawn down from the contingency;
 - 5.3 **authorised** the Ministry of Education to sign the 12-year contracts to renew the Daily Bus and Technology Bus services once the funding has been drawn down;
6. **agree** that, as the final outcome of the school bus tender has been confirmed and services are expected to cost approximately \$110m per annum, \$6 million of the tagged contingency in recommendation 5.1 above be drawn down;

7. **approve** the following changes to appropriations to provide for the decision in recommendation 5.1 above, with a corresponding impact on the operating balance and net core Crown debt:

	\$m - increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Vote Education	-		-	-	-
Minister of Education					
Non-Departmental Output Expense:					
School Transport		6.000			
Total Operating	-	6.000	-	-	-

8. **agree** that the proposed changes to appropriations for 2021/22 above be included in the 2021/22 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;
9. **agree** that the changes to appropriations in recommendation 7 above be charged against the School Transport Contract Uplift – Tagged Operating Contingency, as follows:

	\$m - increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
School Transport Contract Uplift					
Operating contingency balance	-	11.849	-	-	-
Draw down above		(6.000)			
Total	-	5.849	-	-	-

10. **agree** to extend the scope of the School Transport Contract Uplift – Tagged Operating Contingency to enable the use of the contingency to cover the cost of issues that may arise during the transition to the new school transport contracts 9(2)(f)(iv)
11. **authorise** the Minister of Finance and Minister of Education jointly to draw down the remaining tagged operating contingency in recommendation 10;
12. 9(2)(f)(iv)
14. **note** that the Treasury and Ministry of Education will work on confirming which baseline updates to the School Transport appropriation the Minister of Finance and Minister of Education jointly have the authority to approve 9(2)(f)(iv)

Next steps and timing

15. **note** that the Ministry of Education will begin signing new contracts with successful transport operators immediately following Cabinet's agreement of the draw down of funding; and
16. **note** that new Daily Bus and Technology Bus service contracts will take effect in January 2022.

Authorised for lodgement

Hon Chris Hipkins

Minister of Education



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Business Committee: Period Ended 28 May 2021

On 31 May 2021, Cabinet made the following decisions on the work of the Cabinet Business Committee for the period ended 28 May 2021:

Out of scope

CBC-21-MIN-0054

**New School Transport Service Contracts:
Tagged Contingency Funding**
Portfolio: Education

CONFIRMED

Michael Webster
Secretary of the Cabinet



Cabinet Business Committee

Minute of Decision

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New School Transport Service Contracts: Tagged Contingency Funding

Portfolio Education

On 24 May 2021, the Cabinet Business Committee:

Background

- 1 **noted** that the Ministry of Education (the Ministry) offers assistance to students where distance is a barrier to education, and that most of this assistance is provided through:
 - 1.1 Daily Bus services (taking students to and from school through services provided by commercial transport bus operators);
 - 1.2 Technology Bus services (transport for year 7 and 8 students of schools that do not have technology facilities);
- 2 **noted** that the Ministry funds a range of transport assistance from an annual appropriation, totalling approximately \$221 million in 2020/21, with Daily Bus and Technology Bus services currently costing approximately \$110 million per annum;
- 3 **noted** that funding used for Daily Bus and Technology Bus services will decrease by \$6 million from 2020/21 to 2021/22, and a further \$5 million from 2022/23 onwards, due to a reduction in time limited funding;
- 4 **noted** that the Ministry has undertaken the following procurement approach for new Daily Bus and Technology Bus service contracts:
 - 4.1 Tender One: a competitive tender for small and regional operators involving the higher of 10 routes or 10 percent of routes in each region;
 - 4.2 Tender Two: placing the remaining routes out for open competitive tender;

Financial Decisions

5 **noted** that on 21 April 2021, Cabinet:

- 5.1 agreed to establish a tagged operating contingency of up to the amount as follows in Vote Education, to cover the first six months of the new school transport contracts commencing in January 2022 and ensure that current school transport services are maintained;

	\$m - increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
School Transport Contract Uplift – Tagged Operating Contingency	-	11.849	-	-	-
Total	-	11.849	-	-	-

- 5.2 invited the Minister to report back to Cabinet once the outcome of the School Bus Tender was confirmed, to seek approval to drawn down from the contingency;

- 5.3 authorised the Ministry to sign the 12-year contracts to renew the Daily Bus and Technology Bus services once the funding has been drawn down;

[CAB-21-MIN-0116.01]

- 6 **agreed** that, as the final outcome of the school bus tender has been confirmed and services are expected to cost approximately \$110 million per annum, \$6 million of the tagged contingency in paragraph 5.1 above be drawn down;

- 7 **approved** the following changes to appropriations to provide for the decision in paragraph 6 above, with a corresponding impact on the operating balance and net core Crown debt:

	\$m - increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Vote Education	-		-	-	-
Minister of Education					
Non-Departmental Output Expense:		6.000			
School Transport					
Total Operating	-	6.000	-	-	-

- 8 **agreed** that the changes to appropriations for 2021/22 above be included in the 2021/22 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;

- 9 **agreed** that the changes to appropriations in paragraph 7 above be charged against the School Transport Contract Uplift – Tagged Operating Contingency, as follows:

	\$m - increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
School Transport Contract Uplift					
Operating contingency balance	-	11.849	-	-	-
Draw down above		(6.000)			
Total	-	5.849	-	-	-

- 10 **agreed** to extend the scope of the School Transport Contract Uplift – Tagged Operating Contingency to enable the use of the contingency to cover the cost of issues that may arise during the transition to the new school transport contracts 9(2)(f)(iv)

- 11 **authorised** the Minister of Finance and the Minister of Education jointly to draw down the remaining balance in the *School Transport Contract Uplift – Tagged Operating Contingency*;

9(2)(f)(iv)

- 14 **noted** that the Treasury and Ministry of Education will work on confirming which baseline updates to the School Transport appropriation the Minister of Finance and Minister of Education jointly have the authority to approve 9(2)(f)(iv)

Next steps and timing

- 15 **noted** that the Ministry of Education will begin signing new contracts with successful transport operators immediately following Cabinet's agreement of the draw down of funding;
- 16 **noted** that new Daily Bus and Technology Bus service contracts will take effect in January 2022.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Jacinda Ardern
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Stuart Nash

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet



Briefing Note: Talking points for Cabinet Business Committee 24 May 2021 – draw down of tagged contingency for school transport

To:	Hon Chris Hipkins, Minister of Education		
Date:	19 May 2021	Priority:	Medium
Security Level:	In Confidence	METIS No:	1258469
Drafter:	Laura Harris	DDI:	+6444632896
Key Contact:	Richard O Reilly	DDI:	+6444637047
Messaging seen by Communications team:	No	Round Robin:	No

Purpose of Report

The purpose of this paper is to provide you with information to support you present the Cabinet paper *Drawn down of Budget 2021 tagged contingency funding for new school transport service contracts* to the Cabinet Business Committee.

Proactive Release

Agree not to proactively release this briefing at this time because it relates to matters which are commercially sensitive.

Agree / Disagree



Rob Campbell
Acting Head of Education Infrastructure

19/5/21

Hon Chris Hipkins
Minister of Education

 / /

Cabinet paper intention

- | | | |
|----|--|---------------------------------|
| 1. | The Cabinet paper seeks approval to draw down \$6 million, in tagged contingency funding, to cover costs associated with the first six months of new school transport contracts for Daily Bus and Technology Bus services. | Para 1
Rec 6 |
| 2. | Once the draw down is approved the Ministry of Education will be authorised to sign new contracts with successful transport operators. It intends to do this immediately following Cabinet approving this paper. | Para 6
Recs
5.3 and
15 |

Key content

Background – procurement and school transport appropriation

- | | | |
|----|---|-------------------------|
| 3. | The Ministry of Education is entering the final stages of a procurement process undertaken to award new 12-year Daily Bus and Technology Bus contracts. These contracts will commence in January 2022. | Para 3 |
| 4. | The new Daily Bus and Technology Bus contracts are expected to cost approximately \$110 million per annum. This is in line with the cost of providing these services under the current contracts. | Para 3
Rec 6 |
| 5. | School transport assistance is funded from an annual appropriation, totalling approximately \$221 million in 2020/21. This includes baseline updates that reflect changes in the cost of providing school transport services (such as increases in labour costs, fuel costs and the number of students eligible for services). | Paras
4, 5
and 14 |
| 6. | Recent baseline updates relating to Daily Bus and Technology Bus services have been time limited, with funding not approved for out-years due to the procurement process for Daily Bus and Technology Bus services. As a result of the time limited component there is a reduction in funding for these services of \$6 million in 2021/22 and \$11 million from 2022/23 onwards. | Para 5
Rec 3 |
| 7. | Now that the procurement process is entering its final stages, there is a need to reset overall baseline funding for Daily Bus and Technology Bus services to align with future costs. As the cost of the new contracts are in line with the current cost of providing these services this requires maintaining the current level of funding (\$110 million per annum). | Paras 3
and 7 |

Approval to draw down from tagged contingency

- | | | |
|----|---|-----------------------------|
| 8. | In Budget 2021, a tagged contingency of up to \$11.849 million was approved, to cover costs associated with the first six months of the new Daily Bus and Technology Bus contracts. Now that the procurement process is in its final stages, I am seeking approval to draw down \$6 million from the tagged contingency, to address the drop in baseline funding for these services in 2021/22. | Paras
6-7
Recs
5-9 |
|----|---|-----------------------------|

9. Approving the draw down now will enable contracts to be signed by the end of May, which would ensure operators have seven months to transition to the new services. This would be a sufficient transition period.

Para 8

10. I am proposing that the remaining contingency (\$5.849 million) continue to be available for the Minister of Finance and I to jointly draw down from, to cover potential costs that may arise as a result of transition risks. Examples of transitional risks that could arise with these contracts would be an operator not being ready to commence services or being unable to continue to provide services after the new contracts commence.

*Para 9
Recs
10-11*

9(2)(f)(iv)

Proactively Released by