

**Inquiry into the Ministry of
Education's monitoring of
scholarships administered
by the Māori Education Trust**

October 2004

This is the report of an inquiry we carried out under sections 16 and 18 of the Public Audit Act 2001.

ISBN 0 478 18122 1

Foreword

The Ministry of Education has, since 1994, contracted with the Māori Education Trust for the administration of certain publicly funded scholarship schemes. As part of the tertiary education reforms, a process began in July 2003 to transfer responsibility for the contract administration from the Ministry of Education to the Tertiary Education Commission.

The Tertiary Education Commission raised concerns about the financial management of the scholarships by the Māori Education Trust, and the quality of the monitoring by the Ministry of Education. The Secretary for Education asked the Auditor-General to consider investigating the concerns, and he decided to conduct an inquiry into the management and monitoring arrangements for the scholarship programmes.

The Auditor-General is currently overseas, and I am presenting this report on his behalf. We thank the staff of the Ministry of Education, the Tertiary Education Commission and the Māori Education Trust for their co-operation and assistance.

K Simpkins
Deputy Controller and Auditor-General

13 October 2004

Contents

| | |
|---|-----------|
| Part 1 – Summary and recommendations | 6 |
| Our findings | 6 |
| Recommendations | 7 |
| Part 2 – Introduction | 10 |
| Why did we consider an inquiry to be necessary? | 11 |
| Mandate for the inquiry | 11 |
| What we did | 12 |
| The structure of this report | 13 |
| Part 3 – Relationship between the Ministry of Education and the Māori Education Trust..... | 14 |
| Part 4 – Administration and monitoring of the Māori and Polynesian scholarships..... | 17 |
| Background | 17 |
| Process followed by the Māori Education Trust | 18 |
| Our findings and conclusions | 19 |
| Part 5 – Administration and monitoring of the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund..... | 22 |
| Background | 22 |
| Process followed by the Māori Education Trust | 23 |
| Our findings and conclusions | 23 |
| Part 6 – Administration and monitoring of the Manaaki Tauria scholarship scheme | 25 |
| Background | 25 |
| Process followed by the Māori Education Trust | 25 |
| Our findings and conclusions | 26 |

| | |
|--|-----------|
| Part 7 – Administration and monitoring of the Māori Education Trust | |
| Scholarships | 28 |
| Background | 28 |
| Process followed by the Māori Education Trust..... | 28 |
| Our findings and conclusions..... | 29 |
| | |
| Part 8 – Control environment within the Māori Education Trust..... | 32 |
| Our findings and conclusions..... | 33 |
| | |
| Part 9 – Contract management and monitoring by the Ministry of | |
| Education | 35 |
| Our findings and conclusions..... | 35 |
| | |
| Part 10 – Observations about the transfer process | 39 |
| | |
| Appendices | |
| 1 – Terms of Reference for the inquiry | 41 |
| 2 – Trust scholarships to which the Crown subsidy can be applied. | 43 |
| 3 – Establishment of the Māori Education Trust | 44 |
| 4 – Māori and Polynesian Scholarships Regulations | 45 |
| 5 – Ngārimu VC and 28th Māori Battalion Memorial | |
| Scholarship Fund | 46 |
| | |
| Figures | |
| 1 – Scholarship schemes and contractual relationships | 14 |
| 2 – Scholarships administered by the Māori Education Trust | 15 |
| 3 – Timeline of proposed amendments to the Regulations | 19 |

Part 1 – Summary and recommendations

- 1.1 The Ministry of Education (the Ministry) has, since 1994, contracted with the Māori Education Trust (the Trust) for the administration of certain publicly funded scholarship schemes. As part of the tertiary education reforms, a process began in July 2003 to transfer responsibility for the contract administration from the Ministry of Education to the Tertiary Education Commission (the Commission). This process is not yet complete.
- 1.2 In anticipation of a handover, staff in the Commission became familiar with the contract arrangements and processes followed by the Trust and the Ministry. As a result, the Commission raised concerns about the quality of the Trust's financial management and the Ministry's monitoring. These concerns were then conveyed to the Secretary for Education.
- 1.3 The funds involved were significant; the Ministry was appropriated \$5,544,000 in the 2003-04 financial year for these scholarships.
- 1.4 To ensure an independent process, in February 2004, the Secretary for Education asked the Auditor-General to consider an investigation. We decided to conduct an inquiry into the management and monitoring arrangements for the scholarship programmes.

Our findings

- 1.5 Overall, the serious concerns raised by the Commission have not been substantiated by our inquiry. However, we did find that the Ministry's contract management and monitoring of its contracts with the Trust has been variable since it contracted with the Trust in 1994 for the administration of a number of Māori education scholarships.
- 1.6 No payments were made without the required milestone report, and there were periods when the standard of file documentation was high. There was also evidence of some analysis by Ministry officials for the majority of milestone reports. However, practice has not met our expectations in the following respects:
 - variable monitoring of the value of scholarship payments made through the Trust scholarship schemes;

- no clear process for approving the schedule of Trust scholarship schemes to which the Crown subsidy can be applied;
 - no clear policy regarding the nature of income items able to attract the Crown subsidy; and
 - variable levels of follow-up inquiry when milestone reports did not meet contractual reporting requirements.
- 1.7 The overall funding arrangements for the Trust scholarships comply with the relevant Parliamentary appropriations. In our view, the operational policy that has provided for the historical practice of paying scholarships to students studying at private training establishments is, under the Manaaki Tauiira contract, in breach of the contract requirements.
- 1.8 The clarity of the contractual arrangements between the Crown and the Trust (including the processes that support the ongoing operation of the scholarships contract) needs to be improved.
- 1.9 The Trust has, in the main, complied with its contractual obligations for awarding scholarships in which the Crown has an interest. However, the Trust's reporting against the contracts did not always address all of the reporting requirements, and, most particularly, its milestone reports did not clearly outline its use of the Crown subsidy or its administration costs.
- 1.10 The Māori and Polynesian Scholarship Regulations 1973 need to be reviewed.
- 1.11 The process of attempting to transfer responsibility for contracts with the Trust from the Ministry to the Commission could have been better managed.
- 1.12 We have been advised that the Ministry intends to complete the transfer to the Commission, pending the outcome of this inquiry. However, as the Ministry remains responsible for the contracts with the Trust until the transfer is completed, we have addressed most of the recommendations to the Ministry.

Recommendations

We recommend that the Ministry and the Commission agree a schedule for completing the transfer of the contracts with the Trust from the Ministry to the Commission. This should be conveyed to the Trust as a matter of priority. (Recommendation 1, page 11.)

We recommend that the Trust and the Ministry clarify whether awards of Māori and Polynesian Scholarships for Higher Education are payable for the duration of a programme of study when an interim NZQA-recognised qualification is awarded. (Recommendation 3, page 20.)

We recommend that the Ministry:

- complete the review of the Regulations associated with the Māori and Polynesian Scholarships for Higher Education, to ensure that they are up to date, as a matter of priority (Recommendation 2, page 19);
- ensure that the Board of the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund approves the list of eligible applicants before the Trust makes any scholarship payments (Recommendation 4, page 24);
- ensure that any payments to Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship recipients are made in a manner consistent with the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945 (Recommendation 5, page 24);
- address whether students studying at private training establishments should be eligible for Manaaki Tauira scholarships and amend the Manaaki Tauira contract as necessary (Recommendation 7, page 27);
- clarify, in the scholarships contract, that the subsidy is based on qualifying income (Recommendation 8, page 29);
- clarify, in the scholarships contract, the nature of income items that are able to attract the Crown subsidy (Recommendation 9, page 30);
- ensure that reporting meets contractual requirements (Recommendation 12, page 36);
- ensure that the costs incurred by the Trust in administering the Manaaki Tauira scholarships are reported on by the Trust in its milestone reports (Recommendation 13, page 36);
- keep full and complete records of its engagements with the Trust as part of any contract renegotiation, and/or monitoring of the performance of the Trust against the contracts (Recommendation 14, page 37);
- routinely monitor the value of scholarships awarded by the Trust from schemes listed in Appendix 3 of the scholarships contract, and monitor the amount of Crown funds held by the Trust for future use (Recommendation 15, page 37);
- establish a process for approving the schedule of Trust schemes to which the Crown subsidy can be applied (Recommendation 16, page 37).

We recommend that the Trust:

- cease processing scholarship applications where the institution of study is not identified (Recommendation 6, page 26);
- seek to recover overpaid GST from the Inland Revenue Department. Any funding returned should then be used to make scholarship payments (Recommendation 10, page 31);
- confirm the institution and course of study of all proposed scholarship recipients with the New Zealand Qualifications Authority before processing any scholarship payments (Recommendation 11, page 34).

Part 2 – Introduction

- 2.1 Each financial year the Ministry of Education (the Ministry) receives funds through *Vote: Education* for Māori and Pacific Island scholarships. The funding supports 4 different scholarship schemes:
- Māori and Polynesian Scholarships for Higher Education;
 - Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund;
 - Manaaki Tauria; and
 - Māori Education Trust scholarships.
- 2.2 The Ministry has 2 contracts with the Māori Education Trust (the Trust). One contract is for the administration of Manaaki Tauria scholarships. The second contract is for administering the remaining 3 scholarship schemes. For clarity in this report, the contracts are referred to as the ‘Manaaki Tauria contract’ and the ‘scholarships contract’.
- 2.3 The Trust receives scholarship applications and processes payments in instalments to recipients of the scholarships. The Trust determines the recipients of its own scholarships, and recommends eligible students for the other scholarships. The Trust has been providing this service on behalf of the Ministry since 1993-94 for the scholarships contract, and since 2002 for the Manaaki Tauria contract.
- 2.4 In recent years these scholarship schemes have focused on tertiary education. As part of the tertiary education reform process, the Ministry decided to transfer responsibility for management of the Crown’s relationship with the Trust from the Ministry to the Tertiary Education Commission (the Commission).
- 2.5 During 2003, in anticipation of the transfer of the 2 contracts, Commission officials reviewed paper-based records maintained by the Ministry. They also held a number of meetings with the General Manager of the Trust and relevant Ministry officials.

Concerns raised by the Tertiary Education Commission

- 2.6 During their review, Commission staff became concerned about:
- the completeness and accuracy of milestone reports submitted by the Trust;

- the Ministry making contract payments in the absence of milestone reports;
 - the legitimacy of payments made under the Crown subsidy arrangement for the Trust's own scholarships;
 - whether the Ministry had funded the Trust in accordance with appropriations and contractual requirements; and
 - whether the Ministry had ensured that the Trust had applied the funding to the purpose for which it was provided.
- 2.7 The General Manager of the Commission raised these concerns formally with the Secretary for Education.
- 2.8 The Secretary for Education discussed them with his senior managers responsible for the relationship with the Trust, and the Ministry's Chief Internal Auditor. The concerns raised in relation to the Ministry and the Trust were serious. To ensure an independent investigation, the Secretary for Education, in February 2004, asked the Auditor-General to consider undertaking an inquiry.
- 2.9 The Ministry of Education has advised us that the transfer of the contracts will be completed following the release of this report and the resolution of the issues we have identified.

Recommendation 1: We recommend that the Ministry and the Commission agree a schedule for completing the transfer of the contracts with the Trust from the Ministry to the Commission. This should be conveyed to the Trust as a matter of priority.

Why did we consider an inquiry to be necessary?

- 2.10 We agreed that the concerns raised by the Commission warranted an inquiry. The funds involved are significant too – the Ministry, through *Vote Education: Benefits and Unrequited Expenses*, was allocated \$5,544,000 in the 2003-04 financial year for scholarships administered by the Trust.

Mandate for the inquiry

- 2.11 This inquiry was carried out under the authority of section 16 and section 18 of the Public Audit Act 2001 (the Act).
- 2.12 The Ministry and the Commission are public entities under the Act, as is the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund (administered by the Trust under the scholarships contract).

2.13 The Trust, while audited by the Auditor-General (by arrangement under section 19 of the Act), is not a public entity.¹

What we did

2.14 Following the terms of reference² for our inquiry, we:

1. examined the role of the Ministry, and its oversight of the scholarship programmes, including the internal control environment operating within the Trust;
2. identified the funding arrangements for the scholarship programmes, and determined their basis and purpose;
3. examined the process by which each funding arrangement was made and whether good practice was complied with;
4. determined whether funding had been applied in accordance with the relevant appropriations, statutory authority, or other requirements;
5. reviewed for each scholarship programme the appropriateness of the arrangements the Ministry had to monitor the implementation and performance of the programme and the effectiveness of that monitoring; and
6. identified for each scholarship programme whether the Trust had performed and/or complied with its obligations with respect to the award of scholarships in which the Crown has an interest.

2.15 Specifically, we:

- examined the processes used by the Trust during 2003–04 to administer the scholarships discussed in this report;
- closely examined a sample of scholarship applications from 2002-03;
- assessed the quality of milestone reporting under the scholarships contract from 1994-2003, and from 2002 for the Manaaki Tauiira contract; and
- analysed the value of scholarships awarded under the Māori Education Trust scholarships scheme from 1994-2003.

¹ The Trust's predecessor, the Māori Education Foundation, was required by the Māori Education Foundation Act 1961 to be audited by the Auditor-General. When the Trust was formed in 1993, it could have appointed another auditor but requested instead that the Auditor-General continue in the role.

² The terms of reference are reproduced as Appendix 1 to this report.

- 2.16 We met with Commission officials and discussed their concerns. We reviewed the relevant documentation at the Ministry, the Commission, and the Trust. We also interviewed managers of the Ministry, the Commission, and the Trust.
- 2.17 Because the Trust is not a public entity in terms of the Public Audit Act 2001, our investigation of the Trust's activities extended only to obtaining evidence about its controls for the handling of funding received from the Ministry.
- 2.18 While the concerns raised by the Commission were sufficiently serious to warrant this inquiry, the events leading to the Secretary for Education's request that we conduct an inquiry were also of some concern. We have included our observations about this process in Part 10 of this report.

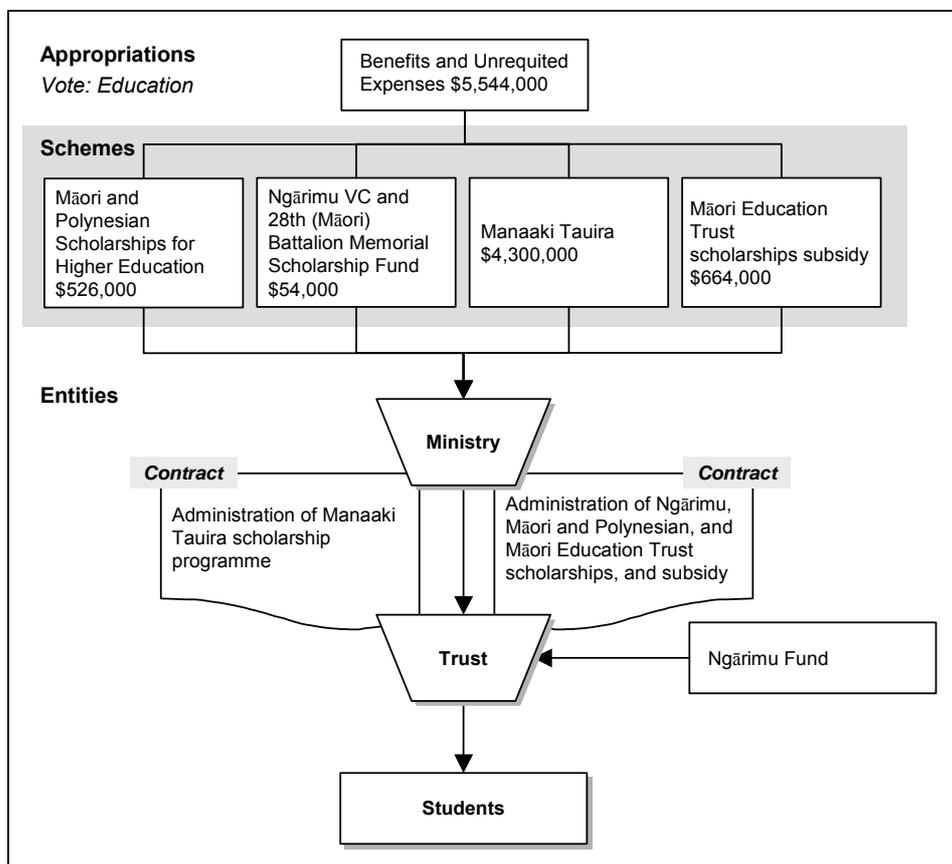
The structure of this report

- 2.19 We begin this report with a description of the relationship between the Ministry and the Trust. We then describe the administration and monitoring of each of the 4 types of scholarship schemes managed by the Trust under contract to the Ministry.
- 2.20 We discuss the control environment within the Trust, and then describe our findings in relation to the Ministry's monitoring of its 2 contracts with the Trust.
- 2.21 We end this report with observations about the events leading to the Secretary for Education's request that we conduct an inquiry.

Part 3 – Relationship between the Ministry of Education and the Māori Education Trust

- 3.1 The Ministry has had a funding relationship with the Trust since the Trust was established.
- 3.2 The Ministry’s relationship with the Trust (and, before the Trust, with the Māori Education Foundation – see Appendix 3 on page 44) has been managed through a variety of contractual arrangements. These arrangements have included purchase agreements and, since 1993-94, contracts for service.
- 3.3 The diagram below summarises the scholarship schemes covered in the scope of the inquiry, their funding, and the contractual relationships between the entities.

*Figure 1
Scholarship schemes, their funding, and contractual relationships*



- 3.4 Scholarships for Māori and Pacific Island students are funded through *Vote Education: Benefits and Unrequited Expenses*. The Ministry contracts the services of the Trust to administer scholarship schemes funded through this appropriation.
- 3.5 The Ministry, through *Vote Education: Benefits and Unrequited Expenses*, was funded \$5,544,000 in the 2003-04 financial year for certain scholarships. The appropriation is described as:

*Programmes to provide scholarships and bursaries to Māori and Pacific secondary students, according to established criteria. The programmes include Manaaki Taurira, Māori Education Trust and Polynesian and Pacific Island Education Foundation Scholarships, Ngarimu VC and Māori Battalion Memorial Scholarship Fund, and Māori and Polynesian Scholarships.*³

Figure 2
Scholarships administered by the Māori Education Trust

| Scholarship type | Amount (inc GST) |
|---|------------------|
| Manaaki Taurira scholarships | \$4,300,000 |
| Māori Education Trust scholarships subsidy | \$664,000 |
| Māori and Polynesian Scholarships for Higher Education | \$526,000 |
| Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund | \$54,000 |
| TOTAL | \$5,544,000 |

- 3.6 The Māori Education Trust scholarships subsidy referred to in Figure 2 is paid by the Ministry for the Trust's own scholarships. It arises from the scholarships contract between the 2 entities. The subsidy is based on the level of certain qualifying income generated by the Trust, and capped at a maximum of \$664,000 each year. The subsidy is discussed in detail in Part 7 of this report.
- 3.7 *Vote: Education* also includes funding, within *Non-Departmental Output Class O6: Management of Grants and Contracts*, to purchase administrative services from the Trust in relation to the scholarship schemes.
- 3.8 The Trust was awarded the contract for administration of the Manaaki Taurira scholarship scheme in July 2002.⁴ The Manaaki Taurira contract is for a 3-year period, ending in June 2005, and includes \$360,000 each year for administration.

³ The total appropriation included a further \$75,000 for Polynesian and Pacific Island Education Foundation Scholarships. These scholarships are administered by the Pacific Islands Polynesian Education Foundation and are outside the scope of this inquiry.

⁴ Specialist Education Services had previously managed the contract.

3.9 The current contract with the Ministry, under which the Trust provides administration services in relation to the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund, Māori and Polynesian Scholarships for Higher Education, and Māori Education Trust scholarship schemes, is also for a 3-year period (ending 28 February 2005). This contract includes \$169,050 each year for administration.

Part 4 – Administration and monitoring of the Māori and Polynesian scholarships

Background

- 4.1 The Ministry is responsible for administering scholarships in accordance with the Māori and Polynesian Scholarship Regulations 1973 (the Regulations). The Trust provides this administration service under contract to the Ministry.
- 4.2 The Regulations contain eligibility criteria for awarding scholarships to Māori and Polynesian students.

Secondary students: Historically, 2 types of scholarships have been awarded to secondary students under the Regulations. Māori and Polynesian Secondary School (Course) Scholarships may be awarded where there is no secondary school that the student can reasonably be expected to attend which offers a course of instruction appropriate to their needs. Māori and Polynesian Secondary School (Distance) Scholarships may be awarded where there is no secondary school the student can reasonably be expected to attend while living at home. The Ministers of Education and Finance from time to time fix the number and value of these types of scholarships.

Higher education students: Māori and Polynesian Scholarships for Higher Education are not to exceed 15 in any year. They are to enable students to undertake a course in a New Zealand university, agricultural college, or technical institute. The required standard of educational achievement is expressed in terms of School Certificate and University Entrance examinations.

- 4.3 Between 1988 and 1999, the Ministry also approved payment of scholarships to ‘special needs’ students. The Ministry introduced the ‘special needs’ scholarship category after receiving Ministerial approval in March 1988 to amend the Regulations ‘to make provision for special needs assistance at secondary school level with effect from 1988’. These scholarships were discontinued in 2000 because the Regulations were never amended, as approved.
- 4.4 Funds are appropriated for the Māori and Polynesian scholarships through *Vote Education: Benefits and Unrequited Expenses*. The maximum amount payable for scholarships awarded in any one year is capped to the level of the

appropriation. In 2001, the scholarships contract allocated the appropriation between the scholarship categories as:

- Secondary students \$535,000
- Higher education students \$526,000

4.5 The scholarships for secondary school students were discontinued after 2001. Eligible students were transferred to the School Boarding Bursaries scheme from this date. The Trust has since administered the Māori and Polynesian Scholarships for Higher Education only.

Process followed by the Māori Education Trust

4.6 Applications for higher education (undergraduate) scholarships close in February each year. The Trust is responsible for receiving applications and for reviewing eligibility against an interpretation of the criteria contained in the Regulations, as agreed with the Ministry.

4.7 The Ministry and the Trust confirmed their interpretation of the criteria in an exchange of correspondence in September 1994. In recent years, the criteria have been programmed into the Trust's scholarship database.

4.8 Once applications have been screened for eligibility, a schedule of recommended scholarships is produced from the database and submitted to the Ministry for review and approval.

4.9 Once Ministry approval has been obtained, the scholarship payments are made by the Trust to the students. The Regulations require payments to be made in 3 instalments each year:

upon receipt of a satisfactory report from the Chairman of the Professorial Board at the University or agricultural college or the principal of the technical institute...on the attendance, diligence, conduct, and progress of the holder.

4.10 The Trust is required by the contract to report to the Ministry. The contract requires the reports to assess the quality of the Trust's service against set performance measures.

Our findings and conclusions

Currency of the Regulations

- 4.11 The regulations for the Māori and Polynesian Scholarships for Higher Education need to be reviewed. The Ministry and the Trust acknowledge that the 1973 Regulations are outdated. They were last amended in 1983.
- 4.12 Practice has been modified to give effect to planned amendments to the Regulations that have been approved by the Minister, but the Regulations have not actually been amended. Figure 3 shows the timetable of proposed amendments.

Figure 3
Timeline of proposed amendments to the Regulations

| Month and year | Development |
|----------------|--|
| March 1988 | The Ministry received Ministerial approval to amend the Regulations to allow for the award of scholarships to 3rd and 4th form students, and to 'special needs' students. |
| February 1997 | The Ministry obtained Ministerial approval to allow 3rd and 4th form students to be awarded scholarships, pending amendment to the Regulations. |
| May 1998 | The Ministry issued drafting instructions to the Parliamentary Counsel Office for the amendments. |
| August 1998 | Parliamentary Counsel advised the Ministry that there were technical legal difficulties in amending the Regulations in the manner proposed. |
| November 1998 | The Ministry advised Parliamentary Counsel that the proposal to amend the Regulations was on hold, pending the outcome of a general review of education scholarships. This review resulted in the transfer of eligible secondary scholarship recipients to the School Boarding Bursaries scheme from 2001. |

- 4.13 There appear to have been no further attempts to amend the Regulations relating to tertiary scholarships since November 1998.
- 4.14 The Ministry is now developing guidance for integrating the National Certificate of Educational Achievement into the Regulations.

Recommendation 2: We recommend that the Ministry complete the review of the Regulations associated with the Māori and Polynesian Scholarships for Higher Education, to ensure that they are up to date, as a matter of priority.

Interim qualifications

- 4.15 Correspondence between the Ministry and the Trust (dated September 1994) appears to have established criteria that supplemented those contained in the

Regulations. For example, in relation to higher education scholarships, a criterion was adopted that restricted the scholarships to students completing their first degree.

- 4.16 In the case of a student enrolling in a programme of study that results in an interim qualification recognised by the New Zealand Qualifications Authority (NZQA), the Trust has determined that the scholarship will continue until the end of the programme of study rather than the completion of the interim qualification. The Trust did not confirm this administrative decision with the Ministry.
- 4.17 One student, who received a Manaaki Taurira scholarship award of \$1,065 in 2003, had received a Maori and Polynesian Scholarship for Higher Education in the 3 years from 1997 to 1999, and again in 2001 and 2002. The student, studying towards a 6-year medical qualification where 2 degrees are awarded, had failed the first year of the second degree in 2000. The total amount received by the student in 2001 and 2002 was \$22,909.
- 4.18 This situation was in keeping with the Trust's decision relating to interim qualifications but was not in keeping with the criteria established with the Ministry. Māori and Polynesian Scholarships for Higher Education were restricted to students studying towards their first degree. Further, the student's failed marks in 2000 should have resulted in the student being ineligible for an award in 2001.

Recommendation 3: We recommend that the Trust and the Ministry clarify whether awards of Māori and Polynesian Scholarships for Higher Education are payable for the duration of a programme of study when an interim NZQA-recognised qualification is awarded.

Over-allocation of scholarships

- 4.19 In the 2000-01 financial year, the Trust failed to take account of students awarded scholarships in previous years who continued to be eligible. This resulted in the secondary scholarships being over-allocated by \$176,838. In addition, 258 new eligible students were submitted in 2001, over and above the number able to be funded from the contracted amount of \$535,000.
- 4.20 Surplus funding in the School Boarding Bursaries scheme was used to fund this shortfall in the secondary scholarships scheme.
- 4.21 The Ministry's plan to deal with the deficit was approved retrospectively by the Minister on 8 August 2001. This retrospective approval was required because the Trust did not report the over-allocation in a timely way, and the Ministry's monitoring did not identify the issue immediately.

Scholarships awarded to ineligible students

- 4.22 Ministerial approval was received in December 2001 for students to retain the conditions of their secondary scholarship when they transferred to the School Boarding Bursaries scheme (using a discretionary provision within the School Boarding Bursaries Regulations 1972). In the process, it became apparent that some ineligible students had been awarded course and distance scholarships. The approval to transfer scholarship conditions was therefore limited to:
- students currently receiving a Māori and Polynesian scholarship to access an education that could not be obtained from a reasonably nearby secondary school;
 - students who had been boarding and would continue to board;
 - students not otherwise eligible for an alternative bursary.

Milestone reporting

- 4.23 The quality of the Trust's milestone reporting has been inconsistent. Frequently, milestone reports have not addressed all of the Trust's contractual obligations.
- 4.24 The variability in the quality of reporting by the Trust led to the Commission becoming concerned about the Trust's financial management and the Ministry's monitoring of the Trust (see paragraph 10.8 on page 40).
- 4.25 We consider that the inconsistencies were representative of the limitations of the Trust's reporting systems rather than any fundamental mismanagement of the Trust's administration of scholarships in which the Crown has an interest. The Trust should, however, have addressed these limitations.

Part 5 – Administration and monitoring of the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund

Background

5.1 This scholarship was established by the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945 (the Act). The Act establishes a board to administer the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund (the Fund), and provides for the Māori Trustee to hold money belonging to the Fund in a separate account. The Fund is a ‘public entity’ under the Public Audit Act 2001 and is audited by the Auditor-General.

5.2 According to section 3 of the Act, scholarships are to be awarded to Māori students:

- who are doing tertiary study;
- whose study promotes the study and encourages the maintenance of the Māori language, history, tradition and culture;
- based on academic merit; and
- for a term of 3 years, except in the cases of doctors’ and veterinarians’ studies where the term is 4 years.

Postgraduate scholarships are to be awarded to Māori graduate students with:

- a record of academic excellence; and
- a proven ability to complete postgraduate studies in New Zealand or overseas.

5.3 A capital fund of about \$555,000 earns interest income. There is also an annual grant from *Vote: Education* of \$54,000. In addition, *Vote: Education* includes \$29,250 each year to be applied towards administration of the Fund.

5.4 The Ministry has entered into a contract (the scholarships contract) with the Trust to provide administration services, including:

- provision of secretarial services to the Ngārimu Fund Board (the Board);
- administration of new and renewed scholarships; and
- organisation and administration of an annual essay competition.

- 5.5 The Act enables the Board to allocate the income of the Fund through:
- scholarship, subsidy, special grant, or bursary for the education of any Māori, or for the purpose of promoting the study and encouraging the maintenance of the Māori language and of Māori history, tradition and culture.*
- 5.6 Only 15 new scholarships are awarded in any year. There are many applications for a limited pool of scholarship funding. From time to time, the Board has established criteria to be applied in determining eligibility.
- 5.7 Priority has been given to tertiary students in areas of study that promote and encourage Māori language and history. The Trust has directed students with high academic achievement in other areas of study to other scholarships administered by the Trust. At the Annual General Meeting on 27 June 2002, the Board decided to highlight the existing criteria, placing high priority on whakapapa and tipuna (ancestry and genealogical links).

Process followed by the Māori Education Trust

- 5.8 Applications for undergraduate and postgraduate scholarships close in February each year. The Trust is responsible for collecting applications and reviewing them against the eligibility criteria contained in section 3 of the Act.
- 5.9 In recent years, the eligibility criteria have been programmed into the scholarship database developed by the Trust. Once applications have been screened for eligibility, a schedule of recommended scholarships is produced from the database and submitted to the Board for review and approval.
- 5.10 The Board, or a standing committee of the Board, is required to approve scholarships.
- 5.11 The Trust is required by the contract to report to the Ministry, as part of the milestone reporting, against performance measures designed to assess the quality of the Trust's service in administering the Fund's scholarship process.

Our findings and conclusions

- 5.12 Due to logistical difficulties, the Board had approved some scholarships after students had received initial payments. This is an unsatisfactory situation. The process supporting the award of these scholarships needs to ensure that the Board approves all scholarship recipients before any payments are made.

Recommendation 4: We recommend that the Ministry ensure that the Board of the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund approves the list of eligible applicants before the Trust makes any scholarship payments.

Payment errors

- 5.13 The Auditor-General's management report, prepared in connection with the audit of the Fund's financial statements for the year ended 31 December 2002, identified that 3 ineligible students had received Ngārimu scholarships. The first 2 ineligible students were each paid \$5,000. The Trust has recognised the administrative errors and reimbursed the Fund.
- 5.14 The third student, an existing scholarship holder, submitted a new application that the Trust approved. He had already been awarded \$5,000 for the 2003 year when the Trust awarded him \$5,000, again for the 2003 academic year, for the new approved application. The Trust has agreed that the student may retain the funds, and for no payment to be made to him in 2004 (the final year of his eligibility).

Practices inconsistent with the Act

- 5.15 The Trust made payments directly to the students, and sought reimbursement from the Fund account, before the Board formally approved the students as scholarship recipients. While administratively efficient, this practice is not consistent with the requirements of the Act.
- 5.16 When the Board did formally approve the students as scholarship recipients, it did not pass a specific resolution to authorise the Trust's reimbursement from the Fund account.
- 5.17 To address this problem, the Trust is considering options for changing the timing of the Board's Annual General Meeting, and the possibility of closing applications for these scholarships before February each year.

Recommendation 5: We recommend that the Ministry ensure that any payments to Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship recipients are made in a manner consistent with the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945.

Part 6 – Administration and monitoring of the Manaaki Tauira scholarship scheme

Background

- 6.1 The Manaaki Tauira scheme was established to ensure that participation by Māori in tertiary education was not adversely affected when significant increases in tertiary fees were introduced in the early 1990s.
- 6.2 This tertiary scholarship scheme is funded from a capped pool of \$4.3 million each year, and may provide up to the lesser of \$1,250 or 90% of tertiary fees. It is allocated proportionally among eligible applicants, and each year grants are made to about 8000 low-income students who can demonstrate a commitment to Māori language and culture. The Ministry establishes the income level for eligibility.
- 6.3 The Ministry carried out a competitive tendering process and awarded the Manaaki Tauira contract to the Trust in 2002.

Process followed by the Māori Education Trust

- 6.4 The process for administering applications for Manaaki Tauira scholarships is the same as that outlined in Part 4 for Māori and Polynesian Higher Education scholarships, with the following exceptions:
 - The Manaaki Tauira scheme is administered through a separate database, which was taken over by the Trust in 2002 when it assumed administration responsibility from Specialist Education Services. The database does not interface with the Trust's financial systems.
 - The Ministry determines the value of scholarship to be awarded to each eligible applicant. The Ministry also sets the maximum annual income an applicant can earn in order to be eligible. This criterion has not changed in recent times.

Our findings and conclusions

Contract award

- 6.5 To ensure an appropriate procurement process was followed, we reviewed the documentation supporting the Ministry's decision to award the Manaaki Taurira contract to the Trust.
- 6.6 The evaluations of prospective suppliers identified 3 potential providers with similar evaluation scores. Only 2 of these providers were requested to submit a full tender proposal. From discussion with Ministry officials, there appear to have been valid reasons to exclude the third potential provider, on the basis that the evaluation of that organisation was inconsistent with the Ministry's existing knowledge of the organisation's capabilities. These reasons were not documented.
- 6.7 The Ministry's knowledge of the organisation should have been documented on the tender evaluation file. The Ministry should also have assessed whether the process it used for the initial evaluation was thorough and appropriate, given that the evaluation results did not match what Ministry staff knew about the organisation's capabilities.

Institutions recorded as 'unknown'

- 6.8 The institution of study for a number of Manaaki Taurira recipients was recorded in the scholarship database as 'unknown'. In 2002 and 2003, we found that \$79,980 had been paid to students at 'unknown' institutions. Scholarship applications should not be processed where the institution is not identified.

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| <p>Recommendation 6: We recommend that the Trust cease processing scholarship applications where the institution of study is not identified.</p> |
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Private training establishments

- 6.9 The Manaaki Taurira contract refers to scholarships being awarded to students studying at:
- a New Zealand University, College of Education, Polytechnic or Wānanga that has been registered by the New Zealand Qualifications Authority to provide the course being undertaken.*
- 6.10 During 2002 and 2003, the Trust continued with the practice (inherited from Specialist Education Services) of awarding scholarships to students studying at private training establishments. Scholarships were awarded to 1107 students at private training establishments, with a total value of \$771,185.

- 6.11 Under the terms of the contract, these students are not eligible for Manaaki Tauria scholarships. The Ministry notes that the tertiary sector has changed since the introduction of Manaaki Tauria and has identified the need to address this situation.
- 6.12 The appropriation covering the Manaaki Tauria scholarship scheme refers to scholarships being provided according to “established criteria”. The Ministry has told us that operational policy has historically recognised students at private training establishments as being eligible for Manaaki Tauria scholarships, given that those establishments fit the criterion in the Manaaki Tauria contract (i.e. of being registered by the New Zealand Qualifications Authority to provide the course being undertaken). In our view, this practice is not authorised by the wording of the Manaaki Tauria contract, which does not refer to private training establishments.
- 6.13 The Manaaki Tauria contract needs to be amended to formalise the criteria that appear to have been established for some time (as reflected in historical practice), and thereby to remove any possibility that the expenditure is in breach of the appropriation. We are unclear as to why the Ministry has not made this straightforward amendment to align the Manaaki Tauria contract with practice.

Recommendation 7: We recommend that the Ministry address whether students studying at private training establishments should be eligible for Manaaki Tauria Scholarships and amend the Manaaki Tauria contract as necessary.

Part 7 – Administration and monitoring of the Māori Education Trust Scholarships

Background

- 7.1 The Trust provides a range of scholarships funded from bequests, private sector donations and income generated from its investment portfolio (including 2 dairy farms). The Crown also provides further funding by way of a subsidy through *Vote: Education*.
- 7.2 The Crown contributes up to \$664,000 each year to the Trust, for distribution through the Trust scholarships listed in Appendix 3 of the scholarships contract between the Ministry and the Trust. The Trust scholarships that can be funded from the subsidy are listed in Appendix 2 of this report (see page 43).
- 7.3 The level of Crown subsidy is calculated with reference to certain qualifying income generated by the Trust. The scholarships contract provides for a ‘dollar for dollar’ subsidy to be paid on “*devises, bequests and other contributions and gifts to the Trust of money, land and other property.*”
- 7.4 Any qualifying non-subsidy income in excess of \$664,000 can be carried forward to a future period and then used to claim the subsidy.

Process followed by the Māori Education Trust

- 7.5 The Trust offers a number of its own scholarships. Only some of these are listed in Appendix 3 of the scholarships contract with the Ministry and are therefore eligible to be funded from the Crown subsidy. The Trust is required to seek Ministry approval to change the specific scholarships to which the Crown subsidy is applied.
- 7.6 The process for administering applications for the Trust’s own scholarships is the same as outlined in Part 4 for Māori and Polynesian Scholarships for Higher Education, with the exception that the Trust does not need to obtain approval from the Ministry to award its own scholarships to students.

Our findings and conclusions

Crown subsidy

- 7.7 The Ministry has considered, at various stages, whether particular income received by the Trust (and its predecessor, the Māori Education Foundation) should be eligible to attract the subsidy.
- 7.8 For example, in 1991 the Ministry did not allow the Māori Education Foundation to claim the subsidy in relation to Hillary Commission grants. The Ministry's decision was based on the view that the Crown funded these grants, and that it would be inappropriate for that income to attract further Crown funding. Similarly, in 1992 the Ministry did not allow the subsidy to be claimed in relation to a GST refund received by one of the Foundation farms, or joint initiatives entered into where the Foundation was recovering part of its costs from a third party.
- 7.9 The Ministry's practice, however, has not been consistent. In subsequent years, the Trust received significant funding from public entities (Lottery Grants Board and the Health Funding Authority). The subsidy was paid on these sources of income.
- 7.10 In 2001, a member of the Ministry's finance team prepared a memorandum that queried whether the subsidy should be claimed on certain items, including share bonus issues and farm income. We were unable to find any documentation that the Ministry properly examined these queries, or that a decision was made.
- 7.11 In our view, the scholarships contract is poorly drafted and inconsistent in respect of the basis of the Trust's entitlement to claim the subsidy. One part of the scholarships contract states that the Trust is entitled to claim a subsidy of up to \$664,000 each year based on the Trust's expenditure on certain scholarships in the previous financial year.
- 7.12 Another part of the scholarships contract refers to the Trust's entitlement to claim a subsidy based on qualifying income (as described in paragraph 7.3 above). The latter reference is consistent with a Cabinet decision on a purchase agreement with the Trust following its establishment, and with the wording of the former Māori Education Foundation Act 1961.

Recommendation 8: We recommend that the Ministry clarify, in the scholarships contract, that the subsidy is based on qualifying income.

- 7.13 Furthermore, the Ministry should define the type of income that qualifies for the subsidy. For example, based on the scholarships contract, the subsidy is not

payable on the Trust's income from its farms. However, in the Ministry's view, it is less clear that the 1994 Cabinet paper excludes such income.

Recommendation 9: We recommend that the Ministry clarify, in the scholarships contract, the nature of income items that are able to attract the Crown subsidy.

Matching and spending the subsidy income

- 7.14 Staff of the Commission had interpreted the scholarships contract as requiring the Trust to match the amount of subsidy income spent on the scholarships (listed in Appendix 3 to the scholarships contract) with an equivalent amount generated from non-subsidy income sources. However, an opinion prepared by the Ministry's legal team on this matter concludes that the scholarships contract only requires the Trust to spend the subsidy income on named scholarships.
- 7.15 In our view, the scholarships contract requires the Trust to spend subsidy income on those scholarships listed in Appendix 3 of the contract. It does not require the Trust to match the subsidy income spent on scholarships with non-subsidy income. Rather, it is the terms and conditions attached to bequests, gifts or similar contributions that govern how the Trust spends such 'donated' income (which triggers the subsidy).
- 7.16 We analysed the subsidy income received by the Trust, and expenditure against the scholarships listed in Appendix 3 to the contract, using information contained in the Trust's annual financial statements. The 2003 figures were obtained from the Trust's financial records (there are no audited financial statements for 2003 yet). Between 1994 and 2003, the Trust has met its obligations in respect of the subsidy by having awarded scholarships (in relation to schemes listed in Appendix 3 of the contract) to at least the value of the Crown subsidy.
- 7.17 The contract requires the Trust to provide the Ministry with a similar analysis. We found that this information had been submitted for only 5 of the years since 1994. In 3 of those years, payments were reported as being made against 3 scholarship schemes that did not appear on Appendix 3 of the contract. This is a breach of the scholarships contract.
- 7.18 The Trust's reporting against the contract did not always address all of the reporting requirements, and, most particularly, its milestone reports did not clearly outline its use of the Crown subsidy.

GST on subsidy

- 7.19 The Trust had returned GST output tax on the subsidy income received from the Ministry. Given that the subsidy is appropriated as a *Benefit and Other*

Unrequited Expense, and not for the production of an output, the GST should not have been returned.

Recommendation 10: We recommend that the Trust seek to recover overpaid GST from the Inland Revenue Department. Any funding returned should then be used to make scholarship payments.

Part 8 – Control environment within the Māori Education Trust

- 8.1 As the Trust is not a public entity within the Auditor-General’s mandate, we did not undertake a comprehensive internal control review. Our inquiry was limited to controls around the administration of taxpayer-funded scholarships.
- 8.2 The Trust is an organisation of 4 permanent staff, including the General Manager. Governance responsibility resides with the Trust Board. The General Manager is the only staff member to hold any financial delegation from the Board.
- 8.3 The Trust processes between 12,000 and 13,000 scholarship applications each year, and administers the distribution of scholarships to about 7000 successful applicants.
- 8.4 Areas of the Trust’s internal control environment that impact on the scholarship schemes can be grouped into controls that influence the:
- accuracy/validity of application details;
 - completeness and accuracy when applications are entered into the scholarship databases;
 - accuracy of business rules within the scholarship databases to ensure that assessments are correct;
 - completeness and accuracy of database reporting;
 - quality of review procedures over successful applicants;
 - reconciliation between the scholarship databases and the financial system; and
 - milestone reporting, and its reconciliation to scholarship databases and the financial system.
- 8.5 In order to assess the effectiveness of the internal control procedures, we reviewed a sample of scholarship applications, to determine whether they had been:
- correctly recorded in the database;
 - assessed correctly against the appropriate criteria;
 - appropriately reported as meeting or failing to meet the criteria; and
 - paid appropriately where successful.

Our findings and conclusions

Data entry errors

- 8.6 We found data entry errors relating to courses of study and academic achievement grades. The risk of data entry errors is compounded by the need to enter details into both the scholarship database and financial system. The process of entering an application into the scholarship database requires entry of the same data into multiple tables. The level of data entry errors in the 2003 year was lower than earlier years. None of the data entry errors identified in the applications we reviewed affected the eligibility of the applicant, or the decision to award or not award the applicant a scholarship.
- 8.7 The Trust's management told us about initiatives currently under way within the Trust to enhance the control environment, primarily through greater use of technology. These initiatives include the development of an interface between the scholarship database and the financial system. This will reduce the need for duplicated data entry, and thereby reduce the risk of data entry errors. The Trust's investment in system integration was partly designed to enable greater reporting functionality.

Scholarship database

- 8.8 The assessment of eligibility is system-dependent. All applications are entered into the scholarship database and automatically assessed against criteria coded into the database. The Trust depends upon external specialists to modify the eligibility criteria against which the database assesses applications. We were assured that this dependency would decrease with the development of a new system.

Segregation of duties

- 8.9 The ability of the Trust to achieve an ideal segregation of duties is limited, as with many entities of a similar size. In the Trust's case, this is particularly evident in relation to the payment process.

Milestone reporting

- 8.10 The process used to generate milestone reports has been time-consuming for the Trust, and there have been discrepancies between the various schedules provided to support the milestone reports.
- 8.11 Since the inception of the scholarships contract, milestone reporting has followed a template. This approach has also been adopted with the Manaaki Tauria contract. In following this approach, the Trust has not complied with all of its contractual reporting obligations. In particular:

- it has not given the Ministry a schedule of the value of scholarships paid under the Trust’s scholarship schemes included in Appendix 3 of the scholarships contract;
- the Trust has not provided reports of actual administration costs against the budget submitted as part of the Manaaki Taurira milestone reports; and
- milestone reports contain inconsistencies between various schedules.

8.12 At the time of commencing this inquiry, the Trust was working with the Commission to reach agreement regarding an ongoing milestone-reporting template.

Confirmation of courses of study

8.13 The Trust relies on educational institutions to confirm that the NZQA has approved both the institution and the course being studied by the scholarship recipient. We would expect the Trust to confirm this directly with the NZQA.

Recommendation 11: We recommend that the Trust confirm the institution and course of study of all proposed scholarship recipients with the New Zealand Qualifications Authority before processing any scholarship payments.

Overall control environment

8.14 The controls operating within the Trust ensured that most applicants were correctly recorded in the database. In most cases, the Trust had correctly assessed applicants against appropriate criteria and paid scholarship recipients appropriately, where they were successful. The exceptions, and areas where improvements could be made, are described earlier in this report.

Part 9 – Contract management and monitoring by the Ministry of Education

- 9.1 Our review of the Ministry’s contract management and monitoring practices focused on:
- the clarity of the roles and responsibilities of the parties;
 - whether the contract established reporting requirements that were sufficient to enable the Ministry to ensure that scholarships were being awarded in accordance with relevant criteria, only on scholarship programmes approved by the Ministry, and within appropriated funds; and
 - whether the monitoring procedures were adequate to ensure that reporting obligations were being met, and that apparent anomalies were identified, investigated and resolved with the Trust.
- 9.2 In order to assess the quality of the Ministry’s contract management and monitoring practices, we selected a sample of milestone reports from each year. We examined whether each report was consistent with the contractual requirements, and, where it varied from the requirements in any material respect, that the Ministry had made appropriate inquiries of the Trust.

Our findings and conclusions

- 9.3 In our view, the quality of the monitoring activity performed by the Ministry was variable in the period 1994 to 2003. There were periods where the level of file documentation was of a high standard. There were also periods where the documentation was not adequate.
- 9.4 Practice has not met our expectations in the following respects:
- variable monitoring of the value of scholarship payments being made through the Trust scholarship schemes;
 - no clear process for approving the schedule of Trust scholarship schemes to which the Crown subsidy could be applied (that is, Appendix 3 of the scholarships contract);
 - no clear policy regarding the nature of income items which are able to attract the Crown subsidy; and
 - variable levels of follow-up inquiry when milestone reports did not meet contractual reporting requirements.

Recommendation 12: We recommend that the Ministry ensure that reporting meets contractual requirements.

Milestone reports

- 9.5 Between 1998 and 2003, the Ministry received all the required milestone reports from the Trust. However, several reports were submitted late. Financial reports in particular tended to be provided several months in arrears.
- 9.6 Many milestone reports we reviewed did not meet all the contractual requirements. For example:
- performance measures reported on by the Trust were not consistent with contract requirements;
 - actual performance against contract targets was omitted;
 - there were inconsistencies within the milestone reports in relation to the number of scholarships awarded in particular categories; and
 - there were inconsistencies between the number of scholarships awarded and financial information included in the reports.
- 9.7 Although required by the Manaaki Taura contract, the Trust has not reported in its milestone reports on administration costs.

Recommendation 13: We recommend that the Ministry ensure that the costs incurred by the Trust in administering the Manaaki Taura scholarships are reported on by the Trust in its milestone reports.

- 9.8 For the majority of milestone reports we reviewed, there was evidence of some analysis being carried out by Ministry officials. This evidence was generally in the form of a letter to the Trust acknowledging receipt of the report, and commenting on, or inquiring into, various aspects of the report.

Responsibility for monitoring

- 9.9 Responsibility for monitoring the contracts was transferred within the Ministry a number of times during the 10 years. In the period from 1996 to 2001, at least 10 different Ministry contracts staff worked with the Trust. Where responsibilities are transferred frequently, the risk of monitoring procedures becoming less rigorous is increased, as it takes time for staff to become familiar with the contract and the relationship.

Recommendation 14: We recommend that the Ministry keep full and complete records of its engagements with the Trust as part of any contract renegotiation, and/or monitoring of the performance of the Trust against the contracts.

Evidence of monitoring

- 9.10 We found no evidence that the value of scholarships awarded by the Trust from schemes listed in Appendix 3 of the scholarships contract was monitored. Without monitoring actual expenditure against the level of subsidy income, the Ministry was unable to quantify whether the Trust still held Crown funds for future use.

Recommendation 15: We recommend that the Ministry routinely monitor the value of scholarships awarded by the Trust from schemes listed in Appendix 3 of the scholarships contract, and monitor the amount of Crown funds held by the Trust for future use.

- 9.11 The scholarship schemes listed in Appendix 3 changed when the scholarships contract was renewed. There was no evidence on file that the Ministry had reviewed the changes and confirmed that any new schemes were consistent with the Ministry's objectives for the scholarship funding. While the Ministry's signing of the scholarships contract could be seen as acceptance of the changes, we would have expected evidence that some analysis was performed to support any changes to Appendix 3 of the scholarships contract.

Recommendation 16: We recommend that the Ministry establish a process for approving the schedule of Trust schemes to which the Crown subsidy can be applied.

Previous Internal Audit reviews

- 9.12 The Ministry's Internal Audit Group (the Group) has carried out a number of audits relating to aspects of the Ministry's relationship with the Trust. Specifically, an audit by the Group in April 2002 reviewed the Ministry's management of its scholarships contract with the Trust for the administration of the Māori and Polynesian Scholarships.
- 9.13 The report concluded that 2 key factors had contributed to the over-allocation of scholarship funds in 2000-01 (see paragraph 4.19), namely:
- Over time, a drift away from strict observance of the Māori and Polynesian Scholarship Regulations had crept into both the Trust's and the Ministry's processes.

- A lack of controls over both eligibility and expenditure within Ministry processes left the Ministry relying on the Trust to correctly assess eligibility, and to recommend numbers that could be funded within the contractual limits.
- 9.14 The Ministry did take steps to address these concerns in a variation to the scholarships contract that took effect from December 2002. Schedule 7 of the variation included specific criteria for assessing eligibility, and specific reporting that would be required to accompany the schedule of successful applicants submitted to the Ministry for approval.
- 9.15 The scholarships contract variation did not specifically provide for the Group to have access to the Trust's records. However, the variation did provide the Ministry with the power to "*evaluate the services itself or by an authorised provider.*" The most recent occasion on which the Ministry sought to evaluate the Trust's services using an external provider was 1996, and the date of the most recent Ministry evaluation was 1997.
- 9.16 The clarity of the contractual arrangements between the Crown and the Trust (including the processes that support the ongoing operation of the scholarships and Manaaki Tauiira contracts) could be improved.

Part 10 – Observations about the transfer process

- 10.1 In our view, the attempted transfer of the responsibility for contracts with the Trust from the Ministry to the Commission could have been better managed.
- 10.2 The Ministry and the Commission were not managing the transfer of responsibility for the contracts with the Trust using standard project management practices. We would have expected the transfer to be planned with explicitly agreed timeframes and defined roles for both organisations. This should have occurred when the Commission began to assume responsibility for management of the contracts with the Trust in July 2003.
- 10.3 The Ministry and the Commission should also have agreed a process for being jointly responsible for resolving any issues during the transfer process.
- 10.4 A Mutual Services Agreement between the Ministry and the Commission, dated August 2003, sought to create a general protocol between the entities as to how financial management, forecasting and reporting were to operate. In our view, this Agreement did not provide sufficient detail on the mechanics of how responsibility for the contracts with the Trust would be transferred from the Ministry to the Commission.

Communication of concerns to the Trust

- 10.5 While the Commission did raise concerns relating to the Trust's practices directly with the General Manager of the Trust, the seriousness with which they were viewed was not communicated. The Commission told us that raising these concerns with the Trust would have been inappropriate as the contractual relationship was between the Ministry and the Trust.
- 10.6 In the Commission's view, it was appropriate to raise these concerns with the Ministry in an effort to allow the Ministry to provide further information where this was available.

Escalation of the Commission's concerns

- 10.7 The Commission raised its concerns formally with the Secretary for Education via a phone-call between the General Manager and the Secretary, and an e-mail dated 30 January 2004. The documents forwarded by the General Manager of the Commission to the Secretary for Education identified the Commission's

concerns, and included some brief analysis by Commission officials, based on their interpretation of the information they had available. The documents referred to poor contract management and monitoring on the part of the Ministry, and poor financial management by the Trust.

- 10.8 The General Manager of the Commission told us that some of the concerns were not well supported by the information available. Nevertheless, all of the concerns raised by the Commission officials were presented to the Ministry in a series of strongly worded memoranda.
- 10.9 The extent and serious nature of the concerns about the Ministry's monitoring, and Trust's management practices, led to the Secretary for Education taking advice before asking the Auditor-General to undertake an inquiry.
- 10.10 As noted previously, this transfer process could have been better managed. Better management would have made it easier for the Ministry and the Commission to jointly resolve the matters raised.

Legal advice about the Crown subsidy

- 10.11 One of the more serious concerns raised by the Commission related to the manner in which the Crown's contribution to the Trust's own scholarships was calculated. The Commission's disquiet was based on its officials' interpretation of the scholarships contract. The Commission did not seek legal advice in arriving at this interpretation.
- 10.12 We would have expected legal advice to be sought regarding the interpretation of a legal document – especially if the interpretation had the potential to raise serious concerns about the prudent use of taxpayer funding and the quality of monitoring by another public entity – before any concerns were passed on to the Ministry by the Commission.

Appendix 1 – Terms of Reference for the inquiry

Inquiry into Funding Arrangements for Māori Education Trust Scholarships Terms of Reference, 3 March 2004

The Chief Executive of the Ministry of Education (the Ministry) has asked the Auditor-General to investigate the Ministry's contract management for the funding it provided to the Māori Education Trust (the Trust) for Māori education scholarship programmes. Responsibility for these scholarship programmes is currently being transferred from the Ministry to the Tertiary Education Commission (TEC).

The Auditor-General is the auditor of the 3 entities concerned. The Ministry and TEC are "public entities" under the Public Audit Act 2001. The Trust is not a "public entity", but the Auditor-General agreed to audit the Trust under section 19 of the Public Audit Act at the Trust's request.

The Auditor-General has decided to conduct an inquiry into the funding arrangements for the scholarship programmes. The inquiry will be conducted under sections 16 and 18 of the Public Audit Act 2001.

This inquiry will:

1. Examine the role of the Ministry, and its oversight of the scholarship programmes, including the internal control environment operating within the Trust;
2. Identify the funding arrangements for the scholarship programmes, and determine their basis and purpose;
3. Examine the process by which each funding arrangement was made and whether good practice was complied with;
4. Determine whether funding has been applied in accordance with the relevant appropriations, statutory authority, or other requirements;
5. Review for each scholarship programme the appropriateness of the arrangements the Ministry had to monitor the implementation and performance of the programme and the effectiveness of that monitoring; and
6. Identify for each scholarship programme whether the Trust has performed and/or complied with its obligations with respect to the award of scholarships in which the Crown has an interest.

The Auditor-General will report the findings of this inquiry to the Secretary for Education in the first instance. He may also report 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 – Trust scholarships to which the Crown subsidy can be applied

Below is a list of the Trust's own scholarship schemes to which the Crown subsidy can be applied (Appendix 3 in the 2002-05 scholarships contract).

Sir Apiranga Ngata Memorial
Francis Irwin Hunt Trust
Nicholas Irwin Hunt Trust
V W & L M Rosier Trust
Sister Annie Henry Education Fund
R & W Winiata Bursary
NZ Institute of Landscape Architects
Transpower Scholarships
QEII Postgraduate Scholarship
Rose Hellaby Education Trust
Ti Maru Māori Trust
R W Mitchell
Norman Kirk
Princess Te Puea Scholarship
John Tapiata
R J Graham Scholarship
E H McCormick Scholarship
Taratahi Agricultural Scholarship
Trust Awards
Professions Scholarships
Special Awards
Ngā Manu Kōrero
Whakamana Whānau
Kia Ata Mai Educational Trust Scholarship
Māori Health Scholarships

Appendix 3 – Establishment of the Māori Education Trust

The Māori Education Trust was established on 21 June 1993 by Deed of Trust between John Bennett and 7 trustees. The trustees applied to be incorporated as a board under the Charitable Trusts Act 1957 on that date. The application was made with the authority of the Māori Education Foundation as at that time it had been agreed that the Foundation would be abolished. The trustees were incorporated as a board on 29 June 1993.

Māori Education Foundation Act 1961

The former Māori Education Foundation was a statutory body established by the Māori Education Foundation Act 1961. The Foundation's general purpose was to promote and encourage the better education of Māori and to provide financial assistance for that purpose.

The Foundation was primarily staffed by Ministry (and formerly Department of Education) officers.

Māori Education Foundation (Abolition) Act 1993

The Māori Education Foundation (Abolition) Act authorised the Governor-General, by Order in Council made on the recommendation of the Minister of Education, to—

- (a) Recognise as the successor to the Foundation any trustees incorporated as a Board under Part 2 of the Charitable Trusts Act 1957; and
- (b) Appoint a day for the abolition of the Foundation and the vesting of its assets and liabilities in the successor trust.

Māori Education Foundation (Recognition of Successor) Order 1993

The Māori Education Foundation (Recognition of Successor) Order 1993 (SR 1993/263) recognised the Māori Education Trust as the successor to the Māori Education Foundation, and made 1 October 1993 the appointed day for the abolition of the Foundation and the vesting of its assets and liabilities in the Māori Education Trust.

Appendix 4 – Māori and Polynesian Scholarships Regulations

The Māori and Polynesian Scholarships Regulations 1973 (SR 1973/59) consolidated and amended provisions that were previously contained in the Māori Schools Regulations 1959.

The Regulations established—

- (a) Scholarships to be known as Māori and Polynesian Secondary School (Course) Scholarships:
- (b) Scholarships to be known as Māori and Polynesian Secondary School (Distance) Scholarships:
- (c) Scholarships to be known as Māori and Polynesian Scholarships for Higher Education.⁵

The Minister of Education and the Minister of Finance have the role of jointly determining the number and value of secondary school scholarships under the Regulations.⁶

The Regulations provide that the Director-General of Education (now Secretary for Education) determines the award of secondary school scholarships (being Course or Distance Scholarships). Applications for scholarships must be made to the Ministry of Education on forms provided for that purpose. The Regulations cover eligibility for secondary scholarships in some detail.

Scholarships for higher education

The Regulations permit the Secretary for Education to award up to 15 scholarships a year to Māori and Polynesian students to enable them to undertake a course in New Zealand at any university, agricultural college, or technical institute. The Regulations specify eligibility for higher education scholarships, the date for applications to be received, the value of scholarships, tenure and payment terms (payment being subject to a satisfactory report from the institution that the scholarship holder attends).

Any distance, course or higher education scholarship can be terminated following an unfavourable report from the recipient's school or tertiary institution.

⁵ Regulation 2A of the Māori and Polynesian Scholarships Regulations 1973, Amendment No. 3 (SR 1982/241).

⁶ Regulation 7 of the Māori and Polynesian Scholarships Regulations 1973.

Appendix 5 – Ngārimu VC and 28th Māori Battalion Memorial Scholarship Fund

The Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945 established a Fund of that name to assist Māori education in New Zealand (the Fund). The Fund was established to commemorate the service of the 28th Māori Battalion and other Māori service men and women in the Second World War, and the award of the Victoria Cross to Te Moananui a Kiwa Ngārimu.

All money belonging to the Fund must be paid to the Māori Trustee, who must hold it in a separate account to be called the Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Account.⁷

No money can be paid out of the Fund Account except by resolution of the Board established by the Act.

The Act established a 15-member Board to administer the Fund. Board members include the Ministers of Education and Māori Affairs, MPs who represent Māori electoral districts, former Māori members of the armed forces, and 2 non-Māori members appointed by the Governor-General.

The Board's general function is to administer the Fund for the purpose of granting assistance by way of scholarship, subsidy, special grant, or bursary for the education of any Māori, or for the purpose of promoting the study and encouraging the maintenance of the Māori language and of Māori history, tradition, and culture.

The Board may from time to time apply money towards all or any of the following purposes:

- (a) The provision for Māori children or older Māori of scholarships of such value and upon such conditions of tenure as the Board in its discretion may determine.
- (b) The provision of books and other equipment for the holders of such scholarships, and the making of grants generally for the purpose of assisting the parents or guardians of the infant holders of any such scholarships to provide for their children's education.
- (c) The provision of prizes for essays relating to the overseas war service of Māori, or to any other subject connected with Māori people.

⁷ Section 3(2), Ngārimu VC and 28th Māori Battalion Memorial Scholarship Fund Act 1945.

- (d) The preparation or production of textbooks relating to the Māori language and to Māori history, tradition, and culture.

The Board may impose conditions for the purpose of ensuring that the grant is expended only for the purposes for which it is made and to the best advantage.

The net income of the Fund in any financial year is available for distribution by the Board, but the capital of the Fund is not available for distribution.

Section 9 of the Act requires the Minister of Finance to pay an annual grant to the Board “for the general purposes of the Fund” out of money appropriated by Parliament for that purpose, and the Board may determine whether to treat the amount received as income, or capital, or partly as each.

The Board is required to give the Minister of Education an annual report of its activities, including its audited financial statements.