

**Specialist Advice Funding for
Treaty Settlement Negotiations**

Claimant Guide

June 2009



Ngā Kaitiaki Rēti Ngahere
CROWN FORESTRY RENTAL TRUST



This guide provides claimant groups engaged in Treaty settlement negotiations with information on how to apply for funding for Specialist Advice projects from the Crown Forestry Rental Trust (“the Trust”).

The guide answers five common questions:

1. What is specialist advice?
2. How can I apply for specialist advice?
3. What happens to the application?
4. What will a specialist advice funding contract look like?
5. How does a specialist advisor get paid?

This guide is a first step. We encourage you to read this guide in conjunction with *Aratohu mo nga ropu Kaitono*, the Guide for Claimants Negotiating Treaty Settlements, which gives more detail on the settlement negotiations process and the Trust’s funding in general.

Most importantly, this guide is designed for you to use in conjunction with your Trust Relationship Manager. Your Trust Relationship Manager will be able to work with you at every step of the application process. If you are unsure of who your Trust Relationship Manager is, please contact the Trust on:

0800 CFRT CFRT.

Electronic copies of this and all other Trust publications are available for download at:

www.cftr.org.nz

PART ONE:

What is Specialist Advice?

Specialist Advice is advice provided by recognised experts to assist claimant groups to negotiate a better Treaty settlement.

Specialist Advisors do not take the place of claimant leaders or negotiators.

To receive Specialist Advice funding you must be an approved client of the Trust, have completed the Trust’s Eligibility and Capability requirements, and have an Operational Funding Contract with the Trust.

Specialist Advice funding is only available to claimant groups that are engaged in settlement negotiations with the Crown.

Specialist Advice funding is different from the Trust’s Research funding.

The Trust contributes funding to claimant groups to directly engage external advisors. These Specialist Advisors provide specialist advice to claimant groups engaged in direct negotiations with the Crown, to help ensure that the claimant groups are well prepared and informed.

Specialist Advisors do not take the place of claimant leaders and negotiators. The responsibility for the claim remains with the claimant group which retains the decision making function.

In the past, the Trust has contributed specialist advice funding to claimant groups for:

- Legal advice to assist claimant groups to review and understand the legal implications of Crown settlement offers. The Trust does not contribute funding for litigation.
- Taxation structuring advice to assist claimant groups to identify tax-

efficient options for the post-settlement governance entity that will hold their settlement assets.

- Strategic advice to assist claimant groups with an overview of the Crown's negotiations framework and processes.
- Strategic communications advice to assist claimant groups to develop a communications plan and media protocols to communicate with their beneficiaries, stakeholders and other parties.
- Forestry valuation advice to assist claimant groups determine the value of the Crown Forest Licensed Land which the claimant group is settling with the Crown.
- Property valuation advice to assist claimant groups determine the value of residential, rural or commercial properties the Crown is offering as part of a settlement package.

Claimant groups who wish to apply for specialist advice funding must:

- Contact their Trust Relationship Manager;
- Be actively engaged in Treaty settlement negotiations with the Crown;
- Become an approved client of the Trust by completing the Trust's eligibility and capability requirements as detailed in the Trust publication *Claimant Assistance and Research Services*; and
- Have an Operational Funding Contract with the Trust. If you do not have a current Operational Funding Contract, an application for Operational Funding support can be made at the same time as an application for Specialist Advice funding.

Claimants requiring research and / or mapping support for their Treaty settlement negotiations should contact

their Trust Research Facilitator. If you are unsure of who your Trust Research Facilitator is, ask your Trust Relationship Manager, or contact us on 0800 CFRT CFRT.

PART TWO:

How do I apply for Specialist Advice?

Your Trust Relationship Manager can assist with developing the application documentation.

You will need to submit a business plan, a description of the specialist advice sought, a budget, confirmation that you are engaged with the Crown, and a completed specialist advice application checklist.

You will need to supply written quotes if you are seeking more than \$50,000 in Trust funding support, or undertake a tender process if you are seeking more than \$80,000 in Trust funding support.

Your Trust Relationship Manager can assist you with developing the documentation required for an application for specialist advice funding.

Before starting your application, we recommend that you take some time to consider:

- What Specialist Advice you require, and in what amount or level it is required;
- How the Specialist Advice will contribute to your Treaty settlement negotiations;
- The timeframes for your Treaty settlement negotiations and whether the specialist advice you require can be achieved within these timeframes; and
- What you want a Specialist Advisor to provide, ie, does your claimant group want a report to present during negotiations, assistance to shape a

negotiation strategy, or, something else?

It is important to consider the level of Specialist Advice funding you are seeking from the Trust.

If your claimant group is seeking between \$50,000 and \$80,000 (including GST) in Trust funding support for a Specialist Advice activity, you will need to provide two written quotes for this specialist advice activity with your application.

If your claimant group is seeking over \$80,000 (including GST) in Trust funding support for a Specialist Advice activity, you will need to provide:

- a) the results of a request for tender to Specialist Advisors to complete the Specialist Advice activity required which identifies the responses to the request for tender and the preferred Specialist Advisor, or:
- b) a list of suitable and available Specialist Advisors, estimated costs and hourly rates and confirmation that a closed tender process will be undertaken if Trust funding support for a Specialist Advice activity is approved.

These things may take some additional time to prepare and so we recommend that they are addressed early in your planning process.

What do I need to supply?

If you want to apply for specialist advice funding support, you will need to supply:

- A business plan;
- A description of the activities for which you are seeking specialist advice funding;
- A budget for the specialist advice activities which aligns with your

business plan;

- Written confirmation from the Crown that your claimant group is actively engaged in Treaty Settlement negotiations; and
- A completed specialist advice application checklist. This is available online for download at: www.cfrrt.org.nz

We recommend that you get in touch with your Trust Relationship Manager early in the application process. Your Trust Relationship Manager will use the material contained in your application to develop a Board Paper for Trustees to consider. Your application cannot proceed unless your Trust Relationship Manager has sufficient material to progress your application.

It is important to note that receipt of a completed application does not constitute a commitment from the Trust to fund any of the activities requested.

A) Business Plan

You will need to submit a Business Plan to the Trust. This Business Plan will need to include:

- your key goals and the anticipated outcomes of your Treaty Settlement negotiations;
- the activities your claimant group will complete during your current phase of Treaty settlement negotiations;
- the likely timeline for completing your Treaty settlement negotiations;
- A risk management plan which identifies risks and mitigation strategies;
- A short description of the activities currently or historically funded by the Trust;
- Confirmation that your claimant group's governing body supports the specialist advice funding support application.

If your claimant group has previously

submitted a business plan to the Trust for Operational Funding support, this plan can be amended and resubmitted to include specialist advice activities.

Risk Management Template example:

Description of Risk	Mitigation measures	Responsibility
Specialist advisor has insufficient or badly defined project brief		
Specialist advisor expands original project brief (“project creep”)		
Specialist advisor does not deliver a satisfactory final product		
Project experiences cost overruns.		

B) Description of Specialist Advice Sought

You will need to submit a detailed description of the activities for which you are seeking specialist advice funding support.

This description will need to include:

- what specialist advice is sought;
- how this specialist advice will benefit your claimant group’s Treaty settlement negotiations;
- what activities the specialist advisor will complete;
- what the specialist advisor will produce – for example a written report, ongoing advice, or a presentation to negotiators;
- how the specialist advisor will be accountable to your claimant group; and

- the timeline for completion of the activities, including an identification of any important dates or steps in the process.

If you have identified a specialist advisor you would like to undertake the specialist advice activity, you will also need to include:

- the name of the Specialist Advisor;
- a CV and / or company profile for the Specialist Advisor which demonstrates their qualifications, experience and capability;
- a description of how you chose the Specialist Advisor; and
- the Specialist Advisor’s hourly rate, any estimated disbursements, and the total amount of funding sought.

If your application for Trust funding support is for over \$80,000 for a single specialist advice activity, you will need to conduct a tender process for the activity. There are two options:

- if you have already carried out a tender process before submitting your application for Trust funding support, your application will need to include:
 - copies of the responses to the request for tender; and
 - an explanation of why your preferred specialist advisor was chosen.
- If you have not carried out a tender process before submitting your application for Trust funding support, your application will need to include:
 - a list of suitable and available specialist advisors;
 - the estimated costs and hourly rates for each of the specialist advisors identified; and
 - confirmation that you will complete a closed tender process if the Trust approves your application for Trust funding support.

If your application for Trust funding support is between \$50,000 and \$80,000 for a single specialist advice activity, your application will need to include two written quotes for the activity.

If your application for Trust funding support is under \$50,000, then you do not need to complete a tender process or provide written quotes. However, you will still need to include:

- the name of the Specialist Advisor;
- a CV and / or company profile for the Specialist Advisor which demonstrates their qualifications, experience and capability;
- a description of how you chose the Specialist Advisor; and
- the Specialist Advisor's hourly rate, any estimated disbursements, and the total amount of funding sought.

If you think any of these situations may apply to your claimant group, we recommend that you get in touch with your Trust Relationship Manager as soon as possible.

C) Budget for the Specialist Advice

You will need to submit a detailed budget for the activities for which you are seeking specialist advice funding support. This budget will need to align with your business plan and your description of the Specialist Advice activities required.

This budget will need to include:

- costs for all the activities for which you are requesting funding support, including disbursements; and
- an explanation of how these costs have been calculated.

The budget costs and amounts will need to include GST if appropriate.

D) Confirmation of Engagement with the Crown

Your claimant group must be actively engaged with the Crown before the Trust can provide any specialist advice funding support. This is usually confirmed by a letter or a workplan from the Crown. Your Trust Relationship Manager will be able to assist you if further information is required.

E) Specialist Advice Application Checklist

The checklist on the centre page lists all of the information you will need to provide to complete your application for specialist advice Trust funding support. Please take some time to ensure that this information is complete, as if there is any information missing this may delay your application. Your completed checklist will need to be attached to your final application.

PART THREE:

What happens to my application?

Your completed application for specialist advice funding support will be assessed by the Trust.

Applications for specialist advice funding support must be approved by the Trust's Board of Trustees.

Specialist advice activities can only be funded from the date the Trustees approve your application.

Once you have submitted your completed application, it will be assessed by the Trust. The Trust will consider:

- how the specialist advice activities link to your business plan;
- whether the amount of Trust funding requested is reasonable;

Specialist Advice Application Checklist

	Page Reference
A) Business Plan:	
Key goals and anticipated outcomes	
Activities to be completed during the current phase of Treaty settlement negotiations	
Timeline to complete Treaty settlement negotiations	
Risk management plan identifying risks and mitigation strategies	
Activities description of those activities currently and/or historically funded by the Trust	
Confirmation from your governing body which supports your Trust funding application	
B) Description of Specialist Advice:	
What Specialist Advice is sought	
Benefits to your Treaty settlement negotiations	
Activities the Specialist Advisor will complete	
What will be produced by the Specialist Advisor	
Description of accountability	
Timelines the Specialist Advisor will need to complete	
If you are seeking up to \$50,000 in Trust funding support for a Specialist Advice activity, please provide:	
The name of the specialist advisor	
A CV and/or company profile demonstrating suitable qualifications, experience and capability.	
Evidence of how and why the specialist advisor was chosen	
Hourly rate, disbursements and total amount requested	
Why a particular specialist advisor is preferred	
If you are seeking between \$50,000 and \$80,000 in Trust funding support for a Specialist Advice activity, please provide:	
The name of the specialist advisor	
A CV and/or company profile demonstrating suitable qualifications, experience and capability.	
How and why the specialist advisor was chosen	
Hourly rate, disbursements and total amount requested	
Why that specialist advisor is preferred	
Two written quotations from specialist advisors	

Specialist Advice Application Checklist cont.

	Page Reference
If you are seeking more than \$80,000 in Trust funding support for a Specialist Advice activity, please provide:	
The name of the specialist advisor	
A CV and/or company profile that demonstrates suitable qualifications, experience and capability.	
How and why the specialist advisor was chosen	
The hourly rate and disbursements and the total amount requested	
Why that specialist advisor is preferred	
Confirmation that a tender process has been completed:	
<ul style="list-style-type: none">• Copies of the responses to the request for tender• Explanation of why the preferred specialist advisor was chosen	
Confirmation that a tender process will be completed:	
<ul style="list-style-type: none">• List of suitable and available specialist advisors• The estimated costs and hourly rates for each of the specialist advisors• Confirmation that a closed tender process will be completed if the Trust approves your application for Trust funding support.	
C) Budget for the Specialist Advice	
Costs for all activities including disbursements	
Explanation of how these costs have been calculated	
Confirmation that GST has been included in your application	
D) Confirmation of Engagement with the Crown	
Letter of Workplan from the Crown	
E) Completed Specialist Advice Checklist	
All components on this list checked off with page references	

- if there is more than one specialist advice project, how they will work together; and
- if the Trust has any existing generic specialist advice that may assist you.

The Trust may send your application for external assessment to make sure that the Trust's assessment is robust and that the rates sought are consistent with the relevant market. If your application is selected for external review your Trust Relationship Manager will contact you to explain how the external assessment process will be managed.

Once your application has been assessed as complete it will be considered by the Board of Trustees at their monthly Board Meeting. These meetings are usually held during the third week of the month, but this can vary. It is important to get your completed application in as early as possible because the deadlines for consideration of your application are usually a month before each Board meeting date.

Activities can only be funded from the date Trustees approve your application. The Trust is unable to provide funding for or reimburse any activities undertaken by your specialist advisor prior to Trustees' approval.

Your Trust Relationship Manager will advise you of the Board's decision as soon as practical and will arrange to begin the contract drafting process. This process is discussed on the following pages.

PART FOUR:

What will a Specialist Advice funding contract look like?

Specialist Advice funding contracts are drafted after the Trustees approve a specialist advice funding application.

The Trust uses a Specialist Advice funding contract with a standard body and four schedules tailored to your application.

The Trust will need to approve a separate contract between the claimant group and the specialist advisor before any specialist advice funding can be released.

You should seek independent legal advice before signing the specialist advice funding contract.

Your contract with the Trust

If the Trustees approve your application for specialist advice funding support, the Trust will prepare a draft specialist advice funding contract for your consideration. Your Trust Relationship Manager will finalise contract details with your claimant group, including discussing:

- The Trust's contracting policies, funding priorities and capability;
- The objectives of the contract, and how these will be achieved;
- The Trust's reporting requirements; and
- How the risks identified in your business plan will be managed.

The Trust uses a Specialist Advice funding contract with a standard body and four schedules tailored to your claimant group's application. We recommend that you seek independent legal advice if you have any queries about the contract or schedules.

The standard body of the contract contains clauses which describe:

- The roles of both parties under the contract;
- How the specialist advice activities will be funded and monitored;
- The dispute resolution process;
- How intellectual property rights will be held;
- How the contract will be terminated; and
- How the contract can be varied.

The four schedules will vary between claimant groups, but will include:

- A summary of the application approved by the Trustees;
- Details of the specialist advice activities approved by the Trustees, including:
 - Activities to be completed by the specialist advisor and
 - Commencement and completion dates of the specialist advisor;
- A summary of the amount of Trust funding support approved by the Trustees; and
- A sample Contract Declaration Form.

Your contract with the Specialist Advisor

You will need to develop a contract between your claimant group and your specialist advisor to ensure that the specialist advisor completes the reporting requirements in the standard body of the contract and is only funded for activities approved by the Trustees. The Trust will need to approve this contract before any Trust funding can be released. Your Trust Relationship Manager has a simple pro-forma contract which you can use to contract with your specialist advisor if needed.

Once the specialist advice funding contract has been agreed, your Trust

Relationship Manager will send you two copies of the contract. These will both need to be returned to the Trust once they have been signed on each page and witnessed. The Chief Executive will countersign the specialist advice funding contract on behalf of the Trust and return an original copy to you.

PART FIVE:

How does a Specialist Advisor get paid?

The Trust does not pay specialist advisors directly.

Payments are made to your claimant group monthly in arrears on receipt of a progress report, invoices, management accounts, and a contract declaration form.

The Trust does not pay specialist advisors directly as there is no contractual relationship between the advisors and the Trust. The Trust's payments are made to the claimant group which then pays the specialist advisor.

Payments are made monthly in arrears. To receive payment, the claimant group will need to provide:

- A.** a progress report;
- B.** an invoice from the claimant group;
- C.** an invoice from the specialist advisor;
- D.** monthly management accounts; and
- E.** a signed and witnessed Contract Declaration Form.

Your Trust Relationship Manager will be able to assist you with developing the documentation required for payments. It is important that all of the information is provided to the Trust, or payments will be delayed.

A: Monthly Progress Report

Your claimant group will need to

provide a monthly progress report setting out:

- activities carried out during the month;
- who carried out the activities;
- any issues arising during the month; and
- any effects or impacts on your Treaty settlement negotiations timelines.

B: Invoice from the Claimant Group

Your claimant group will need to provide a monthly invoice setting out the total amount of specialist advice Trust funding support requested for that month. This amount should be equal to invoices from the specialist advisors.

C: Invoice from the Specialist Advisor

Your claimant group will need to provide copies of invoices from the specialist advisor/s. These invoices will need to include:

- the activities carried out by the specialist advisor during the month;
- who carried out the activities;
- the number of hours spent carrying out the activities;
- the hourly rate charged for the activities;
- the total amount of fees charged by the Specialist Advisor; and
- a description of any disbursements incurred, including:
 - who incurred the disbursement, and
 - the total amount of disbursements incurred by the specialist advisor.

D: Monthly Management Accounts

Your claimant group will need to provide monthly management accounts relating to your specialist advice funding contract. These are the same accounts as are required under an operational funding contract. The

monthly management accounts will need to include:

- Statement of Financial Position;
- Statement of Financial Performance;
- Variance Analysis of Financial Performance;
- Transaction Analysis; and
- Bank statements.

E: Contract Declaration Form

Your claimant group will need to provide a signed and witnessed Contract Declaration Form which confirms that all the information provided is accurate.

Once you've submitted your payment documentation, it will be assessed by the Trust. The Trust will consider:

- if the activities have been delivered according to the contract;
- if risks are being managed;
- if the Specialist Advisor is assisting the claimant group with their settlement negotiations; and
- whether the project timeline is on target.

Once your payment documentation is assessed as complete, your invoice will be processed for payment. Your Trust Relationship Manager will contact you if any additional information is required to process your payment.

Crown Forestry Rental Trust

WELLINGTON OFFICE

Level 7, 135 Victoria Street
PO Box 2219
Wellington
Ph: 04 915 1500
Fax: 04 916 7806

NORTHLAND OFFICE

Level 2, Grant Thornton House
35 Robert Street
PO Box 1697
Whangarei
Ph: 09 430 4035
Fax: 09 430 4036

ROTORUA OFFICE

1289 Fenton Street
Rotorua
Ph: 07 349 6438
Fax: 07 343 6186

Freephone:
0800 CFRT CFRT
0800 2378 2378

Email:
contact@cfrt.org.nz

Website:
www.cfrt.org.nz

