

New Zealand Government Procurement

Feedback on Draft National Infrastructure Plan

8 August 2025 – Final Draft

Tēnā koutou,

We write to provide feedback on the Draft National Infrastructure Plan (NIP) dated 31 July 2025.

The draft NIP provides a great foundation for strong strategic planning, and we are happy to see the inclusion in the recommendations relating to **Procurement** and then further references to Procurement throughout the NIP highlighting its importance.

Our aim is to continue to work with the Infrastructure Commission, other Government Agencies and Local Authorities to actively support the implementation of the National Infrastructure Plan. Whilst we have no specific drafting changes to recommend we note the following.

It's pleasing to see commitments to regular updates to infrastructure planning instruments and active stakeholder engagement provide assurance that long-term value and sustainability will be prioritised, particularly as government agencies active across similar projects convene and collaborate.

We commend the transparent, criteria-based evaluation process described in the Infrastructure Priorities Programme. While the NIP is clearly open to private sector submissions, it would benefit from explicit commitments to supplier diversity and Small-to-Medium Enterprise access with a view to fostering innovation, strengthening supply chains, and promoting social and economic equity.

The proposed 5th Edition of the Government Procurement Rules now includes Rule 8 – Economic Benefit to New Zealand and Rule 9 - Planning for New Construction Works. NZGP is preparing Guidance to support the implementation of 5th Edition and there is an opportunity collaborate with the Infrastructure Commission particular Rule 9.

The NIP includes independent evaluation processes and post-implementation reviews. It acknowledges past delivery challenges and proposes some mechanisms for improved accountability and learning. These mechanisms could be strengthened by requiring the active involvement of relevant system leads (including NZGP) throughout project lifecycles, during the Investment Management System processes. We also recommend strengthening the contract management and performance monitoring frameworks described in the NIP, including data transparency expectations across agencies engaged in similar projects across government, to drive continuous improvement and full value capture. Our Rules 34 and 35 could support this as they provide greater focus on Contract Management and Reporting.

Finally, we look forward to progressing our more recent conversations with the Infrastructure Commission regarding better collaboration and support of our respective Data and Analytics goals and objectives. This could even mean potentially integrating elements to support the NIP and The Pipeline.

We commend the Commission for its thoughtful and forward-looking approach to infrastructure planning and thank you for the opportunity to contribute to its refinement.

Nā mātou, nā

Government Procurement Rules:

Responsible expenditure of public funds

5TH EDITION 2025



Ministry of Business, Innovation and Employment (MBIE) Hīkina Whakatutuki – Lifting to make successful

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders.

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Foreword

Government spends tens of billions of dollars on goods, services and works from business and third parties. It is important that procurement is done well, good outcomes are achieved, and trust in the system is maintained. Procurement teams are the stewards of this expenditure.

As the Procurement System Leader, I am pleased to introduce the fifth edition of the Government Procurement Rules: Responsible expenditure of public funds. The Government Procurement Rules (the Rules) ensure that system settings are clear and support agencies to achieve the best possible public value while also ensuring integrity, transparency and accountability throughout their procurement activities.

The Rules have been updated with a focus on economic growth, more transparency and strengthened accountability. The changes enable a stronger, more cohesive procurement system and respond to feedback from key stakeholders.

Government agencies will be expected to engage with businesses that deliver public value to New Zealand, including through increased employment, skills and training and economic growth for local communities. This will create greater opportunities for New Zealand's small and medium sized enterprises, including regional businesses.

The new Rules put stronger requirements around reporting for better transparency of government spending and better insights for everyone. They support economic growth through government procurement, and they tighten the rules of engagement on panel contracts. Government agencies must publish their procurement policies and consider how they can create opportunities for New Zealand businesses.

The procurement function is an agency's key market interface, providing intelligence and insights on market dynamics and emerging trends, as well as external feedback on investment projects. Procurement can also add value to an organisation beyond the acquisition of the goods and services needed to conduct business. This potential is realised through a focus on good procurement practice and robust processes.

This edition supports these aspirations. It aims to meet the challenge of simplifying and streamlining processes and requirements to help realise the promise of better value for New Zealand.



Carolyn Tremain
Procurement System Lead
Secretary for Business, Innovation and Employment and Chief Executive
Te Tumu Whakarae mō Hīkina Whakatutuki

Context

What is procurement?

The term ‘procurement’ covers all aspects of acquiring and delivering goods, services and works (refurbishment and new construction). It starts with identifying the need and finishes with either the end of a service contract or the end of the useful life and disposal of the asset. This is called the procurement lifecycle. You can obtain more information on the eight stages of the procurement lifecycle at: www.procurement.govt.nz.

Procurement can range from relatively simple and low risk activities to those that are complex and high risk. Taking a strategic approach will usually result in better outcomes for procurements that are high risk or high value. A strategic approach involves understanding the importance of the procurement to the agency in achieving its outcomes, undertaking adequate planning, sourcing suppliers and managing relationships to successfully deliver against public policy objectives and business needs, while delivering *public value*. This could also mean making the most of approaches outside of traditional tendering, such as lean agile procurement, outcomes-based contracting, competitive dialogue, or working with the market to innovate the best solutions.

Public value means achieving the best possible result from a procurement. For instance, procurement offers the opportunity to diversify our supplier base, support *New Zealand businesses* and deliver economic benefits to New Zealand.

The *Rules* address all parts of the procurement lifecycle. It covers planning your procurement, market research, approaching the market, evaluating responses, negotiating and awarding the contract, and contract management. Consult the [Guide to Procurement](#) for a ‘how to’ guide for procurement.

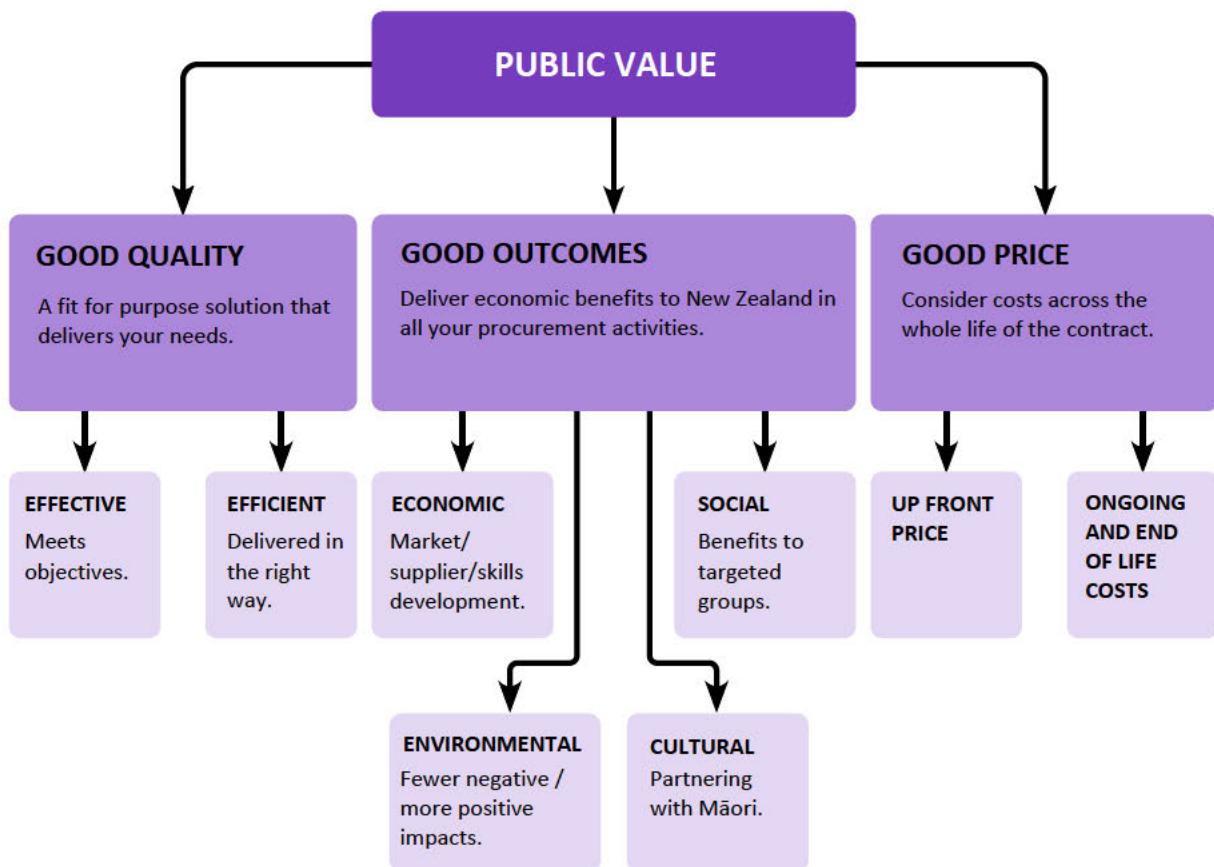
What is public value?

Public value means getting the best possible result from your procurement, using resources effectively, economically and without waste, and taking into account:

- the total costs and benefits of a procurement (total cost of ownership), and
- its contribution to the results you are trying to achieve.

Delivering better *public value* through government procurement should include securing *economic benefits* to New Zealand. A list of matters agencies can consider for delivering economic benefit can be found in Rule 8. Agencies should consider which matters are most appropriate for the procurement and likely to deliver the benefits sought.

Selecting the most appropriate procurement process that is proportionate to the value, risk and complexity of the procurement will also help achieve *public value*. Good procurement is about being risk aware, not risk averse.



What is good procurement?

Government procurement is based on the *Government Procurement Charter, Principles, Rules* and other good practice *guidance*. Collectively, these provide a broad framework that supports accountability for spending, sound business practice and better results.

Good practice isn't just mechanically applying the *Rules*. It's about developing a strong understanding of all of the aspects of the procurement lifecycle, and skilfully applying these to deliver the best results. While you still need to comply with the *Rules*, you should design your process proportionate to the value, risk and complexity of the procurement. This may involve a typical tender process, or it could also mean engaging with potential suppliers in different ways to develop or innovate appropriate solutions (for example, engaging in a lean agile procurement process, or outcomes-based contracting). It's about applying sound commercial judgement to achieve the best *public value*, and drive innovation and performance.

Understanding suppliers and the market is part of the careful planning essential to developing the right approach to market. All procurement covered by the *Rules* should be supported by a robust business case or procurement plan that has a level of detail reflecting the size, value, duration and complexity of the procurement.

Procurement also covers proactively managing supplier and other key stakeholder relationships throughout the sourcing process and for the duration of the contract. This continues to develop the supplier and drives *public value* through ongoing efficiency and effectiveness gains.

The procurement function can have a much wider role and add value to an organisation beyond the acquisition of the goods and services the organisation needs to conduct its business. It is an agency's key market interface, with the potential to provide a wide range of data and insights on market dynamics and emerging trends, as well as external feedback on key investment projects. Available 'in-house' and readily accessible, the procurement function can become a valued business partner within its organisation. It can help inform operational and strategic decision-making processes and drive better risk mitigation and management practices. Similarly, in its feedback to suppliers, the procurement function can help support critical market investment and growth.

What are the Rules?

The Government Procurement Rules are the Government's standards of good practice for government procurement.

The Rules must be read along with the *Principles of Government Procurement*, the *Government Procurement Charter* and other good practice *guidance*. You can read more about these at: www.procurement.govt.nz.

The *Rules* were first published in October 2013, replacing the Mandatory *Rules* for Procurement by Departments issued by the Ministry of Economic Development in 2006.

There have been three further editions of the *Rules* between 2014 and the present. This fifth edition aims to improve transparency of procurement activities, strengthen accountability, focus on growth, and streamline and simplify as much as possible.

Why have Rules?

TO GUIDE PUBLIC AGENCIES TO PROCURE RESPONSIBLY AND ACHIEVE PUBLIC VALUE

The *Rules* guide government agencies through setting a standard of best practice procurement. To responsibly procure, agencies must achieve public value; this includes the *economic benefits* to New Zealand that an agency is seeking to achieve. The ability and responsibility to achieve *public value* through procurement is applicable to everyone involved in procurement processes within an agency, not just the procurement team.

TO PROVIDE AND MAINTAIN THE INTEGRITY OF GOVERNMENT PROCUREMENT AND ACCOUNTABILITY FOR PUBLIC FUNDS

The *Rules* establish processes that are consistent and predictable, making it easier for agencies and suppliers to engage with each other. Government agencies must account for how they spend public money. The *Rules*, along with the *Principles of Government Procurement*, the *Government*

Procurement Charter and good practice *guidance*, available on www.procurement.govt.nz and www.oag.govt.nz, provide a framework that promotes responsible spending when purchasing goods, services, or works. This framework supports proactively managing procurement process and delivery risks.

Agencies must also be aware of and comply with relevant law, including the common law of contract, public law and commercial law obligations as well as government policies relevant to them. Acting with integrity and being accountable for our actions will promote and maintain public trust in government.

TO PROMOTE OUR VALUES

New Zealand is committed to open, transparent and competitive government procurement that:

- delivers public value
- does not discriminate against suppliers (whether domestic or international), and
- meets agreed international standards.

The *Rules* reflect these values and standards.

TO ENCOURAGE COMMERCIAL PRACTICE

Early market engagement and continued open dialogue with suppliers are essential to achieving good results. There are sound commercial reasons why building stronger relationships with business is important. The *Rules* encourage better commercial practice by promoting these types of behaviours and achieving greater public value.

TO SUPPORT NEW ZEALAND'S ECONOMY

As a small, remote trading economy, New Zealand needs to export to thrive. A competitive economy trading successfully with the world is one way to build ongoing economic growth, including in the regions. This creates jobs and grows incomes. *New Zealand businesses* need greater access to international markets to increase their export opportunities.

The *Rules* incorporate New Zealand's international treaty obligations. Access to markets is secured through Free Trade Agreements (FTAs). Under FTAs, countries offer reciprocal access to their government contracts and agree minimum procedural standards for open, transparent and fair government procurement. The *Rules* reflect New Zealand's FTA commitments and align with the [World Trade Organization Agreement on Government Procurement \(GPA\)](http://www.wto.org/gpa).

Following the *Rules* is essential:

- to provide open and fair competition that supports innovation and helps create a competitive, productive supply base in New Zealand – that supports economic growth and development
- for New Zealand being valued as a desirable trading partner – demonstrating our professional practice and maintaining our reputation for integrity.

TO BUILD HIGH-PERFORMING PUBLIC SERVICES

Third-party suppliers deliver a large share of the government's public services. We can improve the effectiveness and efficiency of public service delivery through better procurement planning, supplier management, and more collaboration across government.

How to use the Rules

The *Rules* are a flexible framework designed to help agencies make balanced procurement decisions. They are underpinned by the procurement 'Principles' and 'Charter'. The 'Principles' apply to all government procurement and provide the foundations of good procurement practice. The 'Charter' sets out Government's expectations of how agencies should conduct their procurement activity to achieve public value.

The *Rules* are divided into four key sections:

- Core Values
- Procurement Lifecycle Steps
- Procurement System Requirements, and
- General Information.

The 'Core Values' section consists of enduring rules that underpin behaviours applicable to the expenditure of public money. For example, this section includes a requirement to adhere to the 'Principles' and the 'Charter'. The 'Procurement Lifecycle Steps' section identifies process requirement rules that follow the lifecycle of a procurement activity or contract. The 'Procurement System Requirements' section consists of rules that identify Agencies' responsibilities to the Procurement System Leader. The 'General Information' section includes information on the application of rules.

Individual rules have been structured into three key sections – 'Primary Requirement', 'Application' and 'Further Information'. The 'Primary Requirement' section identifies the key intent or desired outcome of the Rule. The 'Application' section identifies how to achieve the primary requirement and includes additional subrules. The 'Further Information' section provides additional context, definitions, and web links where relevant.

The *Rules* are supported by the [*Guide to Procurement*](#), a step-by-step guide to navigating the government procurement *plan, source, manage* lifecycle. The *Guide* helps agencies ensure they are conducting their procurements properly and thoroughly, and considering all aspects of good procurement practice, in line with the *Rules*.

The *Guide* will help you *plan* before approaching the market, *source* quality responses from the right suppliers and *manage* the contract for a successful outcome. You must understand the market, the best way to source your requirements, and then consider how the *Rules* apply. The *Guide* is there to support you to do this correctly and provides access to additional tools, templates, guidance and external resources you might need. Other sources of guidance and information include the [*Office of the Auditor-General*](#) and Learning for Government Procurement ([*Hikina*](#)), accessible to those with allocated logins.

The *Guide* is not a substitute for the *Rules* and cannot be used in isolation. You must always consult the *Rules* in the first instance. If you are unsure of anything and cannot find the answers in the *Rules* or the *Guide*, talk to one of our procurement experts at procurement@mbie.govt.nz.

Section and paragraph headings are not part of the *Rules* and should not be used to assist with interpretation.

Words and phrases that have a special meaning are explained in the Glossary and are marked in italics.

When ‘includes’ or ‘including’ is used before a list in a Rule, or examples are provided, it means that the relevant Rule may cover things that are not specifically identified in the list or examples.

References to Acts or Regulations include any amendments made to them and any Acts or Regulations that succeed them.

Individual *Rules* should not be read in isolation from each other and the *Principles of Government Procurement*, and the *Government Procurement Charter*. An interpretation of each Rule that best fits its purpose within the *Rules* as a whole should be adopted.

Agencies can rely on the *Rules* to incorporate New Zealand’s international commitments on government procurement. Readers do not need to refer directly to these treaties and agreements.

Treaty of Waitangi / Te Tiriti o Waitangi

Agencies should be aware of their obligations under The Treaty of Waitangi/Te Tiriti o Waitangi and how this relates to their procurement activities. This includes procurement obligations that are specifically named in Treaty settlements and Treaty settlement legislation, as well as agency-specific agreements with Iwi/Hapū.

Information that may assist agencies to understand their Treaty obligations can be found on the websites of:

- [Te Arawhiti](#)
- [The Department of the Prime Minister and Cabinet](#)

New Zealand is party to International Agreements that include specific provisions preserving the pre-eminence of The Treaty of Waitangi/Te Tiriti o Waitangi (the Treaty). The Treaty exception provides flexibility for the Government to implement domestic policies in relation to Māori, including in fulfilment of the Crown’s obligations under the Treaty. Pursuant to this provision New Zealand may adopt measures it deems necessary to accord favourable treatment to Māori, provided that such measures are not used as a means of arbitrary or unjustified discrimination or as a disguised restriction on trade in goods, trade in services and investment.

The Treaty exception is not to be used to preference Māori suppliers, or as an opt-out or exemption from open advertising when undertaking procurement activities.

Where an agency is considering the application of this provision in their procurement work, this should be discussed in the first instance with the Trade Law Unit at the Ministry of Foreign Affairs and Trade (DM-LGL@mfat.govt.nz).

You can read more about New Zealand government procurement policy and practice at: www.procurement.govt.nz.

The five principles of Government Procurement

The Principles of Government Procurement apply to all government agencies and provide government's overarching values. They apply even if the Rules do not. Agencies should use the Principles for guidance and to help make good procurement decisions.

Take time to read the five Principles. You need to understand how they apply to the work that you do.

1. PLAN AND MANAGE FOR GREAT RESULTS

- Identify what you need and then plan how to get it.
- Set up a team with the right mix of skills and experience.
- Involve suppliers early – let them know what you want and keep talking.
- Take the time to understand the market and your effect on it. Be open to new ideas and solutions.
- Choose the right process – proportional to the size, complexity and any risks involved.
- Encourage e-business.

2. BE FAIR TO ALL SUPPLIERS

- Create competition and encourage capable suppliers to respond.
- Treat all suppliers equally – we don't discriminate (this is part of our international obligations).
- Seek opportunities to involve New Zealand businesses.
- Make it easy for all suppliers (small and large) to do business with government.
- Be open to subcontracting opportunities in big projects.
- Clearly explain how you will assess proposals – so suppliers know what to focus on.
- Talk to unsuccessful suppliers so they can learn and know how to improve next time.

3. GET THE RIGHT SUPPLIER

- Be clear about what you need, and fair in how you assess suppliers – don't string suppliers along.
- Choose the right supplier who can deliver what you need, at a fair price and on time.
- Choose suppliers that comply with the Government's Supplier Code of Conduct
- Build demanding, but fair and productive, relationships with suppliers.
- Make it worthwhile for suppliers – encourage and reward them to deliver great results.
- Identify relevant risks and get the right person to manage them.

4. GET THE BEST DEAL FOR EVERYONE

- Get best public value – account for all costs and benefits over the lifetime of the goods or services.
- Make balanced decisions – consider the potential economic benefits to New Zealand.
- Encourage and be receptive to new ideas and ways of doing things – don't be too prescriptive.
- Take calculated risks and reward new ideas.
- Have clear performance measures – monitor and manage to make sure you get great results.
- Work together with suppliers to make ongoing savings and improvements.
- It's more than just agreeing the deal – be accountable for the results.

5. PLAY BY THE RULES

- Be accountable, transparent and reasonable.
- Make sure everyone involved in the process acts responsibly, lawfully and with integrity.
- Stay impartial – identify and manage conflicts of interest.
- Protect suppliers' commercially sensitive information and intellectual property.

Government Procurement Charter

The Charter sets out government's expectations of how agencies should conduct their procurement activity to achieve public value.

Government agencies spend approximately \$51 billion a year on a wide range of goods and services from third-party suppliers. We need to ensure that government procurement delivers public value for all New Zealanders while supporting the delivery of better public services throughout New Zealand.

Agencies should identify their key priorities and seek to meet as many of these expectations as practical.

The New Zealand government directs agencies to:

1. DELIVER ECONOMIC BENEFITS TO NEW ZEALAND

Work to create opportunities for local businesses and small-to-medium enterprises to participate in your procurement processes. Consider if your procurement offers opportunities for delivering social, environmental and cultural outcomes.

2. LOOK FOR NEW AND INNOVATIVE SOLUTIONS.

Make sure you don't overprescribe the technical requirements of a procurement, give businesses the opportunity to demonstrate their expertise.

3. ENGAGE WITH BUSINESSES WITH GOOD EMPLOYMENT PRACTICES.

Ensure that the businesses you contract with operate with integrity, transparency and accountability, and respect international standards relating to human and labour rights. For businesses operating within New Zealand, ensure that they comply with all New Zealand employment standards and health and safety requirements.

4. PROMOTE INCLUSIVE ECONOMIC DEVELOPMENT WITHIN NEW ZEALAND.

Engage with Māori, Pasifika, and regional businesses and social enterprises in order to actively contribute to our local economy. Openly working to include and support these businesses and enterprises through procurement will promote both skills development and a diverse and inclusive workforce.

5. MANAGE RISK APPROPRIATELY.

Responsibility for managing risks should be with the party – either the agency or the supplier – that is best placed to manage the risk. Agencies and suppliers should work together on risk mitigation strategies.

6. ENCOURAGE COLLABORATION FOR COLLECTIVE IMPACT.

Look to support greater collaboration, both across-agency and across-businesses to give likeminded groups the opportunity to find common solutions within your procurement opportunities

Part One – Core values

Rule 1: Principles and the Government Charter

PRIMARY REQUIREMENT

1. Agencies must adhere to the five Principles of Government Procurement and the Government Procurement Charter.

APPLICATION

2. Agencies must have procurement policies in place that incorporate the five [Principles of Government Procurement](#) and the [Government Procurement Charter](#).
3. Agencies must make their procurement policies publicly available.

FURTHER INFORMATION

Agencies' internal procurement policies are what guide staff in their procurement activities. They explain the internal processes they use to do their procurement, including the extent that they apply the Government Procurement Rules. Publishing these policies enables suppliers to understand processes that the agency will use and should drive transparency, consistency, predictability and stronger agency accountability.

Agencies are responsible for ensuring that staff engaged in procurement have the relevant skills and capability to undertake procurement, including understanding the Principles, Charter and these Rules. Agencies and staff are encouraged to use available procurement competency frameworks to inform themselves of expected competencies.

Guidance on creating procurement policies:

[How to write a procurement policy | New Zealand Government Procurement](#)

Rule 2: Integrity

PRIMARY REQUIREMENT

1. Agencies must act with integrity in their procurement processes.

APPLICATION

2. Agencies' policies must require that the agency and all staff involved in procurement:
 - a. safeguard the integrity of its procurement activities and processes;
 - b. ensure the whole procurement process is fair, transparent and reasonable;
 - c. act lawfully, responsibly, and with integrity;
 - d. undertake a thorough and appropriate level of due diligence that has been planned for and applied to all procurements;
 - e. stay impartial when making procurement decisions;
 - f. to the extent possible, avoid purchasing procurement advice from a supplier that has a commercial interest in the contract opportunity;
 - g. can justify their procurement decisions and always document their rationale;
 - h. apply appropriate protections to private and confidential information;
 - i. identify, notify, manage and record conflicts of interest;
 - j. understand how to prevent, detect, and respond to corruption threats; and
 - k. have protections in place for whistle-blowers.
3. Agencies must engage with suppliers that act with integrity and incorporate a [Supplier Code of Conduct](#) in every contract.

FURTHER INFORMATION

Supplier integrity

Suppliers to government and suppliers in the supply chain are expected to act with integrity. This can be achieved through embedding a supplier code of conduct into the contract. Agencies may refer to New Zealand Government Procurement's (NZGP) Supplier code of conduct, or its own.

[Supplier code of conduct](#)

Early market engagement

This rule does not prevent an agency from using early market engagement to clarify needs or identify possible solutions. For more information about early market engagement, see the guide on [Constructive Market Engagement](#).

More information on integrity and conflicts of interest, can be found in the Guide to Procurement:

[Managing probity and acting ethically](#)

Other relevant resources:

- [Te Kawa Mataaho Public Service Commission](#)
- [Managing conflicts of interest: Guidance for public entities - Office of the Auditor-General New Zealand](#)
- [Commerce Commission - Avoiding anti-competitive behaviour](#)
- [Integrity in public procurement | OECD](#)
- [Conflict of interest | OECD](#)
- [Serious Fraud Office](#)

Rule 3: Accountability

PRIMARY REQUIREMENT

1. Agencies **must** be accountable for their procurement performance.

APPLICATION

2. Agencies **must**:
 - a. be able to give a complete and accurate account of their use of public funds;
 - b. have suitable governance and management arrangements in place to oversee procurement activities and
 - c. be transparent in their expenditure of public funds.
3. Agencies **must not** intentionally avoid applying the Rules when planning for, valuing or undertaking a procurement by either:
 - a. designing, structuring or dividing a procurement into separate parts
 - b. using a non-standard or alternative valuation method to lower the estimated value.

FURTHER INFORMATION

Number of contracts

After conducting market analyses, you might decide to restructure the work into separate lots and publish a tender with multiple subcategories. You should then indicate in your Notice of Procurement the possibility, or your intention, that the procurement may be awarded in separate lots.

Restructuring large contracts into smaller lots can be helpful for small New Zealand businesses that may not be able to compete for one large contract. For instance, instead of choosing one supplier who is able to deliver a national contract, you could split a contract by region and contract with multiple small regional businesses. However, you **must not** split a procurement with the intent to avoid applying the Rules.

Rule 4: Non-discrimination and offsets

PRIMARY REQUIREMENT

1. Agencies must give all suppliers an equal opportunity to bid for contracts.

APPLICATION

2. Agencies must:
 - a. treat suppliers from another country no less favourably than New Zealand suppliers
 - b. base procurement decisions on the best public value, over the whole of life of the goods, services or works.
3. Agencies must not:
 - a. discriminate against suppliers because of:
 - i. the country the goods, services or works comes from
 - ii. their degree of foreign ownership or foreign business affiliations.
 - b. ask for, take account of, or impose any offset at any stage in a procurement process.

FURTHER INFORMATION

Non-discrimination

The expression 'must treat suppliers from another country no less favourably than New Zealand suppliers' means a supplier will be assessed on their merits. It does not prevent you from awarding a contract to a New Zealand supplier if they present the best public value, inclusive of economic benefits sought as part of the tender process.

Rule 5: Protection of supplier information

PRIMARY REQUIREMENT

1. Agencies must protect suppliers' confidential or *commercially sensitive information*.

APPLICATION

2. Agencies must not disclose confidential or *commercially sensitive information* unless:
 - a. the supplier has already agreed to it in writing, or
 - b. the disclosure is required by law (e.g. under the [Official Information Act 1982](#)), convention or Parliamentary or Cabinet Office practice, or
 - c. it is a limited disclosure expressly notified in a Notice of Procurement to which suppliers have consented by participating in the process.

FURTHER INFORMATION

Commercially sensitive information

Commercially sensitive information is information that, if disclosed, could prejudice a supplier's commercial interests and compromise fair competition between suppliers.

It includes:

- the design and content of a tender
- trade secrets and 'know-how'
- new ideas
- innovative solutions
- pricing structures
- profit margins
- market strategies.

Examples of prohibited disclosure of information include:

- disclosing commercially sensitive information to a supplier's competitor
- using or adopting an idea or solution without the supplier's agreement.

It is good practice to include instructions to suppliers (in your Notice of Procurement) to mark their responses, or the relevant parts of their responses, as 'commercial in confidence'.

If you need to share responses with other agencies or advisors as part of the evaluation process, you will need to seek permission for such disclosure by making this a condition of participation in your Notice of Procurement.

Part Two – Procurement lifecycle steps

– Planning

Rule 6: Planning

PRIMARY REQUIREMENT

1. Agencies must conduct appropriate planning based on the size, risk and complexity of each procurement.

APPLICATION

2. Agencies must:
 - a. Ensure the good or service is not covered by an existing *All-of-Government, Open syndicated or Common Capability contract*.
 - b. Engage with other agencies to seek opportunities to collaborate, where appropriate.
3. Agencies must consider the following in their planning:
 - a. the procurement objective
 - b. market analysis and engagement
 - c. demand analysis
 - d. the sourcing approach
 - e. *economic benefits*
 - f. risk identification, analysis and management
 - g. due diligence throughout the procurement lifecycle (see Rule 26)
 - h. the evaluation criteria and methodology
 - i. the form of contract
 - j. the contract management approach
 - k. relevant funding and other approvals
 - l. governance.

FURTHER INFORMATION

Information on All-of-Government and syndicated contracts can be found here: [Contracts | New Zealand Government Procurement](#)

Information on Common Capability contracts can be found here: [Buying products and services | NZ Digital government](#)

Further information about planning your procurement is in the Guide to Procurement:

- [Plan your procurement | New Zealand Government Procurement](#)
- [Writing a procurement plan | New Zealand Government Procurement](#)

Rule 7: Estimating the monetary value of a procurement

PRIMARY REQUIREMENT

1. Agencies must act in good faith and use good judgement to estimate the total monetary value of a procurement to determine whether it meets or exceeds the following *value thresholds*:
 - a. \$100,000 for goods, services, and refurbishment works
 - b. \$9 million for new construction works.

APPLICATION

2. Agencies must:
 - a. consider total value over the whole of life of all the contract/s (excluding GST) that result from the procurement, including costs associated with disposal of the goods
 - b. include everything required for the full delivery of the goods, services or works including the value of:
 - i. options to purchase additional goods, services or works
 - ii. options to extend the term of the contract
 - iii. related goods, such as health and safety equipment, materials
 - iv. services related to the goods and services, such as installation, maintenance, training or management consultancy
 - v. services related to construction works, such as architecture, engineering, planning services or management consultancy
 - vi. subcontracted services
 - vii. paying any premiums, fees or commissions to the supplier or a broker
 - viii. any related revenue streams a supplier receives
 - ix. any other form of remuneration or payment due to the supplier or to a third-party or any interest payable.
 - c. include the estimated monetary value in their business case or procurement plan
 - d. apply the Rules if it cannot estimate the maximum total estimated value of a procurement.

FURTHER INFORMATION

Value thresholds

As of 1 October 2019, the threshold for construction works is \$9 million (excluding GST) and the threshold for goods or services or refurbishment works is \$100,000 (excluding GST). New Zealand is party to a number of Free Trade Agreements that include government procurement and The Treaty of Waitangi/Te Tiriti o Waitangi Exceptions.

To ensure alignment with obligations outlined in these agreements, the value thresholds may be adjusted if there are significant changes in the value of the New Zealand dollar. As the Rules represent good practice, agencies can apply the Rules for procurements under this threshold.

Good practice regardless of monetary value

Agencies are expected to follow good procurement practice even if the monetary value of a procurement is less than the value threshold. This means applying the Principles and having regard to other good practice guidance.

It's better to be cautious. If your estimated value is getting close to the value threshold (e.g. services valued at \$98,000), always consider using an open competitive process. After all, your calculation is only an estimate.

Calculating the value of new construction works

When planning new construction works, you may decide to structure work into subcategories and award these to separate suppliers. Openly advertising smaller contracts can be helpful for smaller businesses that do not have the capacity to supply all the components of a large project.

If you decide to structure work into subcategories:

- each of the packages of work will count towards the maximum total estimated value of your procurement
- you must do so consistently with Rule 3: Accountability.

Example of revenue streams

An example of related revenue streams: a supplier receives tolls from a highway it has built.

Rule 8: Economic benefit to New Zealand

PRIMARY REQUIREMENT

1. Agencies **must** require that suppliers demonstrate in their tender proposals how they will deliver economic benefits to New Zealand for contracts above the *value thresholds* of \$100,000 for goods, services and *refurbishment works* and \$9 million for construction works.
2. Agencies **are expected to award contracts** below the *value thresholds* of \$100,000 for goods, services and *refurbishment works* and \$9 million for construction works to *New Zealand businesses* that are capable and have capacity to deliver the contract.

APPLICATION

3. Regarding 8.1, agencies **must** consider the following opportunities to deliver economic benefit to New Zealand:
 - a. providing skills and training that benefit New Zealand communities
 - b. employing workers in New Zealand

- c. paying taxes in New Zealand
- d. using New Zealand businesses, including SMEs, regional businesses and Māori and Pacifica businesses in delivering goods and services, either directly or as a subcontractor or in the supply chain
- e. creating export opportunities for New Zealand goods and services
- f. developing New Zealand industry capabilities or capacity
- g. developing and adopting innovative products or practices that benefit New Zealand communities
- h. the environmental benefit of the proposed solution to New Zealand
- i. contributing to positive social and cultural outcomes in New Zealand communities.

4. Agencies must:

- j. set clear expectations in their Notice of Procurement of the economic benefits they are seeking to be delivered in the procurement opportunity
- k. ensure their expectations are proportionate to the size, risk, complexity and value of the procurement opportunity
- l. include a minimum weighting of 10 percent for evaluation purposes for economic benefits in a procurement
- m. include contract provisions for the delivering of the agreed economic benefits
- n. conduct sufficient monitoring of *economic benefits* to ensure that commitments made in contracts are delivered and reported on.

FURTHER INFORMATION

What is the purpose of this Rule?

The Government recognises the importance of considering the economic benefit of procurements to the New Zealand economy.

Agencies have flexibility in the way they assess value for money, including the economic benefit to New Zealand.

Agencies may place a stronger emphasis on economic benefit and apply a higher weighting than 10 percent subject to the nature and desired outcome of the procurement.

Applying a weighting

When determining what weighting to apply, agencies **must** take into consideration the length and the whole of life cost of the contract as detailed in the guidance.

Guidance on how to apply weightings is available here: [Decide on your evaluation methodology](#)

Rule 9: Planning for new construction works

PRIMARY REQUIREMENT

1. Agencies must apply the good practices set out in the Construction Procurement guides, where appropriate, when procuring construction works, and be able to produce documented evidence of the rationale where they have not been followed.

FURTHER INFORMATION

Planning for new construction works

There are a number of ways that you could demonstrate that the construction procurement guides have been considered. For example, in a procurement plan you could include a statement that the guides have been consulted, provide a brief overview of how the procurement aligns with the guides, or highlight the areas where the process deviates and provide the rationale for doing so.

New Zealand Government Procurement's [Construction procurement guidelines](#).

Part Two – Procurement lifecycle steps

– Approaching the market

Rule 10: Requirement to openly advertise

PRIMARY REQUIREMENT

1. Wherever possible, agencies **must** use *open competitive procurement processes* to give all interested *suppliers* the opportunity to compete.

APPLICATION

2. Agencies **must**:
 - a. use procurement approaches that are proportionate to the value, risk and complexity of the procurement that will achieve *public value*.
 - b. openly advertise on the [Government Electronic Tenders Service \(GETS\)](#):
 - i. if the maximum total estimated value of the procurement meets or exceeds \$100,000 for goods, services or *refurbishment works*, or \$9 million for construction works, and
 - ii. when there is no exemption from open advertising (Rule 12).
 - c. list the *contract opportunity* on GETS, including
 - i. attaching the *Notice of Procurement* (Rule 18) and provide access to all relevant documents free of charge.
 - d. include the following basic information in its GETS listing:
 - i. the agency's name
 - ii. the name of the *contract opportunity*
 - iii. the type of procurement process (e.g. *Request for Tender*)
 - iv. the relevant GETS tender watch code/s
 - v. the deadline for *responses* from suppliers
 - vi. the address for enquiries and the name of the contact person
 - vii. a list of any other documents that are not available on GETS and details of how *suppliers* can get them.

FURTHER INFORMATION

Government Electronic Tenders Service (GETS)

The [Government Electronic Tenders Service \(GETS\)](#) is a free service. It supplies information about New Zealand government contract opportunities and includes any replacement e-procurement system. GETS promotes open, transparent and fair competition. MBIE manages GETS on behalf of the New Zealand government. You can read more about GETS: [GETS | New Zealand Government Procurement](#).

GETS is accessible to all interested suppliers, both domestic and international.

Agencies may advertise using other media, as well as GETS.

Open competitive process

Good procurement is about good process and good results.

Open competitive processes that comply with the Rules include:

- one-step processes such as a Request for Quote or Request for Tender
- multi-step processes such as a Registration of Interest followed by a shortlisting then a Request for Proposal or Request for Tender
- outcomes-based contracting
- relational contracting
- lean agile
- collaborative contracts
- competitive dialogue
- commissioning
- social investment *contracting*.

For further information on open competitive procurement processes and GETS, please refer to the Guide to Procurement.

- [Source your suppliers | New Zealand Government Procurement](#)
- [Options for approaching the market | New Zealand Government Procurement](#)

Social sector commissioning and social investment outcome contracts

The Rules apply to goods or services designed and/or delivered through social sector commissioning and social investment outcome contracts, where the delivery of the good or service is provided by a third-party.

Some government agencies, in particular those involved in supporting the delivery of social services, use commissioning to support the delivery of a good or service. Commissioning is where goods or services are designed in partnership with communities, those who benefit from, or those who deliver the good or service. The Rules apply to goods and services delivered through commissioning models when the good or service is provided by a non-governmental organisation or third-party.

Rule 11: Opt-out procurements

PRIMARY REQUIREMENT

1. Agencies may *opt-out* of applying all of the Rules if the facts and circumstances meet one or more of the circumstances listed in Appendix 1.

APPLICATION

2. Agencies **must** be able to demonstrate that basic principles for spending public money have been met, namely, an agency **must** act lawfully and with integrity, be fair and transparent, achieve *public value*, and be accountable for its decisions.
3. Agencies that wish to opt-out of applying the Rules **must**:
 - a. obtain evidence of the facts and circumstances to verify the reason/s for the *opt-out* before approaching the market, and
 - b. document the rationale for the decision before approaching the supplier/s.
4. The rationale document **must** include:
 - a. the name of the agency
 - b. a description of the goods, services or works
 - c. the maximum total estimated value (Rule 7) of the goods, services or works
 - d. the specific *opt-out* that applies (from the list in Appendix 1)
 - e. details of the facts and circumstances that justify the *opt-out*
 - f. demonstrate that it will achieve *public value*; and
 - g. the name and position of the person approving the decision to *opt-out*.
5. Agencies exercising an *opt-out* **must** still apply Rules 2, 3, 5, 8, 27, 36, 45, and 46, and the supplier complaint processes still apply.
6. Agencies exercising an *opt-out* **must** apply Rules 19, 33, 41, 42, 43, when relevant.
7. Agencies **must** publish a *Contract Award Notice* (Rule 32) on GETS for a *procurement* that it has exercised an *opt-out*.

FURTHER INFORMATION

Opt-out decisions

The opt-out rule allows the government flexibility in the way it sources goods services or works in certain situations, but it does not authorise having no process at all in respect of awarding contracts.

Opting out of a competitive process is strongly discouraged where there are suppliers that could be capable of delivering the contract.

You should always consider your options and use good judgement to decide whether or not opting out of the Rules is the best way to meet your needs.

Rule 12: Exemption from open advertising

PRIMARY REQUIREMENT

1. Agencies may exempt a procurement from *open advertising* if the facts and circumstances meet one or more of the circumstances listed in Appendix 2.

APPLICATION

2. Agencies **must not** exempt a *procurement* from *open advertising* to:
 - a. avoid *competition*
 - b. protect domestic suppliers
 - c. discriminate against any domestic or international *supplier*.
3. If an agency exempts a *procurement* from *open advertising*, it **must**:
 - a. obtain evidence of the facts and circumstances to justify the reason/s for the exemption before starting the procurement, and
 - b. document the rationale for the decision before approaching the *supplier/s*.
4. The rationale document **must** include:
 - a. the name of the agency
 - b. a description of the goods, services or works
 - c. the maximum total estimated value (Rule 7) of the goods, services or works
 - d. the specific exemption/s, that applies (from the list in Appendix 2)
 - e. details of the facts and circumstances that justify the exemption
 - f. information that demonstrates that it will achieve *public value*; and
 - g. the name and position of the person approving the decision to exempt the procurement from *open advertising*.
5. Agencies **must** publish a *Contract Award Notice* (Rule 32) on GETS for any *procurement* that it has exempted from *open advertising*.

FURTHER INFORMATION

Secondary procurement

Where an agency has established a panel of suppliers or is purchasing under an All-of-Government contract (Rule 38), Common Capability contract (Rule 39) or Syndicated contract (Rule 40), it does not need to openly advertise individual contract opportunities that are awarded through that arrangement.

Open exemption rationale

This rationale may form part of the business case or procurement plan or may be a stand-alone document.

Closed competitive and direct source

If you use a direct source (with one known supplier) or a closed competitive process (with several known suppliers), it does not mean that you can immediately contract that supplier. You should request a formal proposal from the supplier and evaluate the proposal, assess its public value, and undertake due diligence before deciding to negotiate a contract. You **must not** simply approach one supplier and award a contract without proper evaluation of capacity, capability, risk, public value and undertaking due diligence.

For further information on closed competitive process or direct source process, refer to the following from the Guide to Procurement.

[Options for approaching the market | New Zealand Government Procurement](#)

For further information on emergency procurement, refer to:

[Emergency procurement | New Zealand Government Procurement](#)

Examples of additional goods, services or works

Examples of additional goods, services or works include:

- in a construction contract, additional ground works that were only discovered on excavating the site
- supplying replacement parts
- additional consultancy services where an unexpected issue arises
- an enhancement or change to an integrated IT system.

Examples of technical reasons

A technical reason could be:

- where there is a need to match with existing equipment, software or services
- where an agency has a bespoke IT system that was custom designed for it and only the supplier that designed it fully understands the code base
- where one supplier has, over a period of time, developed such an intimate knowledge of an outdated or complex system that the agency can reasonably claim that other suppliers would not have a similar level of readily available knowledge
- where a spare part or component is only available from one supplier
- where only one supplier has essential, highly specialised expertise, technology, qualifications or skills, e.g. an internationally recognised expert doing cutting edge work in a field of science or medicine
- where a construction company has already been contracted to do the base build of a building and there would be no real competition in bidding for the fitout due to the efficiencies gained from being established on site. However, this should not be used as a default position to avoid proper procurement planning.

A procurement relating to intellectual property rights could be:

- where an agency is purchasing an online subscription to content or other services with unique characteristics

- where an agency is purchasing software licences from a proprietary supplier for software that is embedded in its operating environment
- a unique piece of art that is protected by copyright and not available elsewhere.

Only one supplier

There may be situations where there is more than one supplier, but for technical reasons, there is no real competition. In such situations, it would still be appropriate to run a closed, rather than open, competitive process with several suppliers.

Rule 13: Third-party agents

PRIMARY REQUIREMENT

1. Agencies must ensure that *third-party agents* used to conduct and manage a procurement adhere to the Rules.

APPLICATION

2. Agencies must monitor *third-party agents* to ensure that they comply with the Rules.
3. Agencies remain responsible and accountable for the actions of their *third-party agents*.

FURTHER INFORMATION

Opportunity to use third-party agents

An agency may purchase the services of a third-party agent (e.g. an external procurement consultant) to advise, arrange or manage a procurement, or part of a procurement, on its behalf.

You can't avoid applying the Rules by using a third-party supplier to do your procurement for you and you can't avoid accountability for the actions and decisions of your agent. Even if your third-party supplier is an agency that is not required to apply the Rules, if you are required to apply the Rules, your third-party supplier will be required to apply them for and on your behalf.

Rule 14: Subcontracting

PRIMARY REQUIREMENT

1. Agencies **must** require prime contractors to meet certain standards, including who their key subcontractors are, in their subcontracting.

APPLICATION

2. Agencies **must** set standards that are consistent with the Principles, the Government Procurement Charter, and the Supplier Code of Conduct.
3. Agencies **must** require prime contractors to provide information on any subcontractors to the contract and changes to subcontractors over the life of the contract on request.

FURTHER INFORMATION

Engaging subcontractors in the procurement process

Subcontracting can be a significant part of delivering a procurement contract. It is important that subcontractors have good standards, particularly in employment, health and safety, and support training and skills development. Agencies should engage with prime contractors who have good processes for managing their subcontractors, and who engage with subcontractors that demonstrate good practice.

Rule 15: Pre-conditions

PRIMARY REQUIREMENT

1. Agencies **must** include only essential *pre-conditions* for participation in a procurement process in its *Notice of Procurement* (Rule 18).

APPLICATION

2. Agencies **must** limit *pre-conditions* to the following critical areas:
 - a. legal capacity
 - b. financial capacity
 - c. commercial or operational capacity or capability to deliver
 - d. appropriate technical skills or expertise or relevant experience.
3. To assess whether a *supplier* meets the *pre-conditions*, agencies **must**:
 - a. evaluate responses against the *pre-conditions* that it published in its *Notice of Procurement* (Rule 15), and
 - b. take into account the supplier's business activities in New Zealand and overseas.
4. Agencies **must not** make it a *pre-condition* that a *supplier* has been previously awarded a contract by a named buyer or a New Zealand government agency.

FURTHER INFORMATION

Pre-conditions

Pre-conditions allow agencies to do a 'first cut' and eliminate suppliers who do not have the minimum capacity or capability to deliver the contract. Agencies should use only those pre-conditions that will enable them to efficiently shortlist those suppliers that have the capability and capacity to deliver the contract.

Clearly written pre-conditions help suppliers determine whether they should respond to the opportunity. Pre-conditions are usually answered by 'yes' or 'no', or 'meets' or 'does not meet'.

Suppliers who meet all the pre-conditions are then eligible to be assessed against the scored evaluation criteria.

Suppliers that do not meet all the pre-conditions should not progress to evaluation of their proposal as they do not meet the minimum capability and capacity requirements for the procurement.

Rule 16: Technical specifications

PRIMARY REQUIREMENT

1. Agencies **must not** apply *technical specifications* or prescribe conformance requirements in a way that creates unnecessary obstacles for *suppliers*.

APPLICATION

2. Where appropriate, *technical specifications* **must** be based on:
 - a. performance and functional requirements, not on design or a prescribed licensing model or a description of their characteristics
 - b. international standards where they exist, otherwise the appropriate New Zealand technical regulations, standards, or building codes.
3. Agencies **must not** (except under Rule 16.4):
 - a. require or refer to a particular trademark or trade name, patent, design or type
 - b. refer to the specific origin of the goods, services or works or the name of the producer or *supplier*.
4. When referring to a particular trademark or trade name, patent, design or type is the only practical way to make the requirements understood, agencies **must** consider equivalent goods, services or works that can be demonstrated to fulfil the requirement by including words like 'or equivalent' in the specification.

FURTHER INFORMATION

More information on using trademarks

A situation where using a trademark may be the only practical way to make requirements understood is when you are sourcing software that needs to be compatible with an existing system.

International standards

International standards are published by recognised international standards organisations. New Zealand standards are often aligned with international standards. When they are, suppliers may understand your needs more clearly if you refer to the New Zealand standard rather than the equivalent international one.

New Zealand technical regulations are mandatory for goods and services for use in, and construction works located in, New Zealand. If there is a New Zealand technical regulation applying to the goods, services or works you are sourcing, your specifications must be based on it. Examples are the [Electricity \(Safety\) Regulations 2010](#) and the Building Code in Schedule 1 of the [Building Regulations 1992](#).

Rule 17: Sufficient time

PRIMARY REQUIREMENT

1. Agencies must allow *sufficient time* for suppliers to respond to a *Notice of Procurement* (Rule 18).

APPLICATION

2. Agencies must:
 - a. act in good faith and use sound judgement when calculating *sufficient time*
 - b. provide the same amount of time for all interested suppliers
 - c. provide a minimum of 20 clear *business days* for suppliers to respond to a procurement process.
3. Agencies must take the following factors into account when calculating *sufficient time*:
 - a. the nature and complexity of the procurement
 - b. the type of information and level of detail suppliers need to provide in their responses
 - c. the nature of the goods, services or works
 - d. how simple or difficult it is to describe the deliverables
 - e. the level of risk
 - f. the extent of any anticipated subcontracting or the likelihood of joint bids
 - g. how critical the procurement is to the agency's success
 - h. the time it takes for domestic and foreign suppliers to submit tenders, particularly if you have asked suppliers to deliver hard copies
 - i. the impact of public holidays on suppliers.

FURTHER INFORMATION

Providing sufficient time

Sufficient time is critical to receiving good responses from interested suppliers. To decide what is sufficient time:

- Be realistic. Set timelines that are fair to all suppliers and reflect the nature and complexity of the information you are seeking.
- Take weekends and national New Zealand statutory holidays into account. For dates of public holidays and anniversary days, see [Dates for public holidays and anniversary days | New Zealand Government](#).
- Avoid publishing contract opportunities on GETS right before Christmas or in early January. Most of New Zealand is on holiday for a good part of January. If you must publish during this period, consider allowing a longer response time unless there is a strong business reason for not doing so.
- Where there is the possibility of joint bids, consortiums or subcontracting, allow more time so suppliers can consult and collaborate. This gives SMEs the opportunity to put together a joint bid, where one SME may not have the full capability to deliver on its own.
- Consider extending your timeframe if there is a late release of material clarifications or supplementary documentation. This allows suppliers to update their responses accordingly. Consider the impact of extending the time on suppliers – they may need to review their entire submission and repeat their internal review and sign off processes.
- Understand what process factors may influence timing, for example, the length of tender documentation and response requirements, time to ask and respond to questions about the tender, and whether the sector or specific suppliers have high workloads.
- Ensure that you have included the opportunity in your FPO, are using GETS to advertise the opportunity and accept responses electronically. Extra time must be allowed if you have not done this.

Don't jeopardise the results you could achieve with a rushed process. If you don't allow sufficient time, you may limit the:

- number of suppliers that can respond and the quality of their responses
- level of competition and your agency's ability to get the best public value, including economic benefits to New Zealand
- choice of solutions offered and your agency's ability to purchase the right one.

Minimum time periods for secondary procurements

When conducting secondary procurements, agencies should refer to the Notice of Procurement and Panel Guide, for minimum time periods.

Late responses to the Notice of Procurement

An agency may, in its Notice of Procurement, reserve the right to accept a late response in exceptional circumstances if there is no material prejudice to any other interested supplier. An agency should not accept a late response if:

- there is any risk of collusion on the part of the supplier

- the supplier may have knowledge of the content of any other response
- it would be unfair to any other supplier to accept the late response because the late supplier is given additional time to prepare its response.

Rule 18: Notice of Procurement

PRIMARY REQUIREMENT

1. Agencies must include all of the information that *suppliers* need to prepare and submit meaningful *responses* in each *Notice of Procurement*.

APPLICATION

2. Each *Notice of Procurement* must contain the following information:
 - a. the agency's name and address
 - b. the name and contact details for the agency's contact person
 - c. the procurement process being used
 - d. a description of the goods, services or works and any *technical specifications*, plans, drawings or instructions, a description of the outcomes, or the service delivery design developed through a *social sector commissioning* process or *social investment outcomes contract*, including any *economic benefits* the agency is seeking to achieve
 - e. the quantity (if known) or estimated quantity of, or when setting up a *panel of suppliers*, the anticipated demand for, the goods, services or works
 - f. the estimated timeframe for delivering the goods, services or works, or the estimated length of the contract and any options relating to the length of the contract (e.g. 3 + 2 + 1 years)
 - g. where known and appropriate, the expected budget available to spend on the goods, services or works
 - h. any service levels, response times or other performance measures suppliers will need to meet
 - i. any conditions for participating in the procurement process, including any pre-conditions (Rule 15) or certificates or standards the supplier must meet.
 - j. any limitations on the number of suppliers that may be shortlisted
 - k. all *evaluation criteria* the agency will use to assess responses, including an indication of the relative importance of each evaluation criterion
 - l. the deadline, address and format (e.g. written or oral responses) for submitting *responses*
 - m. any restrictions or instructions on how suppliers are to submit *responses* or details of how *responses* are to be submitted through an e-procurement system.
 - n. any other terms or conditions relating to the procurement or the procurement process
 - o. if the procurement will be conducted electronically (e.g. using e-tender software), all the information suppliers will need to participate electronically

p. if the procurement may involve an *e-auction* or other non-traditional procurement process, the rules or instructions relevant to the process and all of the information and training suppliers need to participate (Rule 25).

FURTHER INFORMATION

Relative importance of evaluation criteria

When listing the evaluation criteria, you must indicate the relative importance of each criterion (Rule 18.2.k). This is achieved by including the weighting for each criterion or, if you are not using weightings, by ranking the criteria in priority order.

Additional information to include in the Notice of Procurement

It is good practice to include additional information in the Notice of Procurement, such as:

- details of how you will communicate additional information or changes to the process
- the contract terms and conditions that will apply
- the indicative timeframe for the procurement process, for example:
 - deadline for suppliers' questions
 - dates for shortlisted supplier presentations
 - dates when suppliers will be notified if they have been successful or not
 - dates debriefs will be held
 - anticipated contract start date.
- a pre-condition for the work to comply with the mandatory requirements in the latest version of the [New Zealand Government web standards](#).

Acknowledgement of multi-step processes

In multi-step processes, detailed information can be made available after shortlisting suppliers.

For a multi-step process, more information or details may be contained in the Request for Tender or Request for Proposal that follows the Notice of Procurement, for example:

- a complete description of the goods, services or works and any economic benefits to New Zealand being sought
- the detailed evaluation criteria the agency will use to award the contract
- full instructions on how a competitive process (e.g. lean agile procurement, an *e-auction* or similar) will be conducted.

New Zealand Business Numbers (NZBN)

Agencies should request an NZBN in their Notice of Procurement.

NZBNs are unique identifiers that have been specifically created for businesses. It's a way for businesses to identify themselves both in New Zealand and globally. NZBNs are for all New Zealand businesses, big or small, including sole traders, Non-Government Organisations (NGOs) and social enterprises.

In procurement, NZBNs can be used to provide standard core business information (e.g. name, address, contact details). Keeping an NZBN up-to-date means you won't have to keep repeating these details or advising business contacts when your business information changes.

NZBNs are not compulsory – suppliers shouldn't be excluded if they don't have one.

NZBNs are quick, easy and free to set up. For more information, see [Home | New Zealand Business Number](#).

Request for Information (RFI)

A Request for Information (RFI) is not a Notice of Procurement. It is a market research tool. Agencies should never shortlist from an RFI – it is unfair to suppliers as all interested suppliers may not have responded and agencies might therefore not obtain the full response they should have to achieve value for money.

Examples of other procurement documents

- architectural drawings
- engineering plans
- licences, permits, concessions, or other documents exchanging goods or assets
- detailed technical specifications
- reports
- extensive specifications in an electronic file that is too large to upload to GETS
- environmental and other standards.

New Zealand Web Standards

Public Service departments, New Zealand Police and New Zealand Defence Force, when outsourcing web development work, **must** include a requirement that the work complies with the mandatory requirements in the latest version of the New Zealand Government web standards. For more information on web standards, see [NZ Government Web Standards | NZ Digital government](#).

Rule 19: Intellectual property

PRIMARY REQUIREMENT

1. Agencies **must** set out, in the *Notice of Procurement*, its intentions regarding ownership, licensing, and future commercialisation of intellectual property created through the procurement.

FURTHER INFORMATION

More information on intellectual property

Consider if new intellectual property will arise in a contract and explicitly set out your expectations about ownership and licensing in your Notice of Procurement. This provides clarity for suppliers at an early stage and potentially reduces expense and time later on negotiating ownership and licensing. Alternatively, you can ask suppliers to state in their responses their assumptions about any anticipated new intellectual property.

Often agencies assume that ownership of new intellectual property in contract deliverables should be owned by government. While there may be circumstances when government wants to own and exploit new intellectual property, there is a trend towards vesting the intellectual property with the party best placed to commercialise it.

Ownership options include:

- the agency owns the new intellectual property and decides to commercialise
- the agency owns the new intellectual property but licenses the supplier to use and commercialise
- the supplier owns the new intellectual property but licenses the agency, and all other State Services agencies, to use.

Allowing the supplier to commercialise the new intellectual property encourages innovation and economic development. Other options include licensing and releasing software as open source.

Guidance has been developed to help you decide an appropriate approach.

[New Zealand Government Open Access and Licensing framework \(NZGOAL\)](#).

Additional guidelines

Cabinet has endorsed specific guidelines for agencies on the ownership and commercialisation of new intellectual property in certain types of procurement. Agencies should take these guidelines into account.

- a. Procuring goods, services or works in the context of Information and Communication Technologies (ICT) (released by the State Services Commission, maintained by the Department of Internal Affairs).
[Guidelines for treatment of intellectual property rights in ICT contracts \[PDF, 218 KB\]](#)
- b. Procuring goods, services or works in the context of Public Service research contracts.
[Cabinet guidelines for intellectual property from Public Service research contracts \[PDF, 25 KB\]](#)
- c. Releasing copyright works and non-copyright material for re-use by others and the NZGOAL Software Extension for software.
[New Zealand Government Open Access and Licensing framework \(NZGOAL\)](#)

Rule 20: Responding to queries

PRIMARY REQUIREMENT

1. Agencies must promptly respond to queries from *suppliers* and treat *suppliers* fairly when doing so.

APPLICATION

2. Agencies must not:
 - a. give information that might give a supplier an unfair advantage over the other suppliers when responding to a question
 - b. discuss or disclose another supplier's confidential or *commercially sensitive information* (Rule 5).
3. Agencies must:
 - a. make information provided in response to a query that is advantageous to a supplier/s available to all suppliers at the same time
 - b. consider extending the *deadline for suppliers' responses* if unable to reply to a question promptly or the response could result in suppliers needing to review and/or update their *responses*.

Rule 21: Additional information

PRIMARY REQUIREMENT

1. Agencies may make additional information available to all participating suppliers after a *Notice of Procurement* is published on GETS and before the *deadline for responses* closes.

APPLICATION

2. Agencies must make additional information available to all participating suppliers at the same time.
3. An agency may publish additional information on GETS or, following a shortlisting, send copies to all participating suppliers.

FURTHER INFORMATION

Examples of participating suppliers

The participating suppliers may be different at each stage of a procurement.

An example of when all participating suppliers are known to the agency could be the second stage of a multi-step tender. This is where the agency has published a Registration of Interest and, after receiving and evaluating the responses, has shortlisted suppliers. The agency then invites the shortlisted suppliers to submit full responses. These suppliers are all participating suppliers known to the agency.

Rule 22: Changes to process or requirements

PRIMARY REQUIREMENT

1. Agencies must notify all participating suppliers of any changes to the procurement process or requirements.

APPLICATION

2. Agencies must publish all changes on GETS or, following a shortlisting, send them to all participating suppliers.
3. Agencies must make all changes available to all participating suppliers at the same time.
4. Agencies must give participating suppliers enough time to respond to the changes. This may mean extending the *deadline for responses*, or allowing suppliers who have already submitted their responses a fair opportunity to change their responses.

FURTHER INFORMATION

More information on changes to procurement processes or requirement

Changes to procurement processes or requirements may include changing:

- any essential aspect of the specification of requirements or technical specifications
- a pre-condition (Rule 15)
- evaluation criteria
- the ranking or weightings of the evaluation criteria
- the deadline for responses or critical dates in the procurement process
- the Rules or conditions that apply to the procurement process.

Don't assume in every case that a small change to the process or to a requirement will require only a small extension of the deadline for responses. Suppliers may need to engage internally or externally (especially where subcontracting is involved) on how to change their response and may also need time to obtain internal sign offs and approvals.

Rule 23: Panel of suppliers

PRIMARY REQUIREMENT

1. Agencies must, before establishing a *panel of suppliers*:
 - a. determine the ongoing need and demand for a *panel*
 - b. have the capacity and capability to manage the *panel* once established.

APPLICATION

2. Agencies **must** openly advertise an opportunity to be selected for a *panel of suppliers* in accordance with Rule 10.
3. Agencies **must**, in addition to the information required in the *Notice of Procurement* under Rule 18, include:
 - a. the terms and conditions of supply
 - b. the *secondary procurement* method/s that will be used to award contracts to suppliers on the *panel*
 - c. the period of time the *panel* will run for and how often it will be refreshed
 - d. whether or not the *panel* is 'open' or 'closed'
 - e. any circumstances that may lead to a *supplier* being removed from the *panel*.
4. Agencies **must**, unless they have good reason not to:
 - a. appoint more than one *supplier* to a *panel*
 - b. have a developed contract management plan for the *panel* and discuss it with *suppliers*, including with any new suppliers added to the *panel* during the contract's life
 - c. provide a *Panel Guide* that includes clear guidelines about the *secondary procurement* process and discuss it with *suppliers*
 - d. ensure the *Panel Guide* is accessible for anyone purchasing from the *panel* at any time.
5. When the *panel* has been established, agencies **must**:
 - a. publish a *contract award notice* on GETS with the names of all of the *suppliers* that have been appointed to the *panel*
 - b. publish a list of the categories of procurement that it manages through *panel* contracts and the end dates for each contract
 - c. identify an appropriate method/s for allocation of contracts and include these in the *Panel Guide*
 - d. designate a method/s that is appropriate for the anticipated size, value, and risk of contracts likely to be awarded over the life of the contract
 - e. not indicate that all possible *secondary procurement* methods will be used.
6. When purchasing from a *Panel* the agency **must** use only the *secondary procurement* method/s specified in the *Notice of Procurement* and detailed in the *Panel Guide* to select a *supplier*.
7. Agencies **must** use only the following accepted methods of *secondary procurement*:
 - a. **competitive quotes which could be based on the supplier's expertise, proposed solution and/or best public value:** Ask for quotes from an appropriate selection of *Panel suppliers* and award the opportunity to the *supplier* who has the right level of expertise, can offer the best *public value*, and deliver on time
 - i. The request **must** indicate how many *panel suppliers* you are approaching (*suppliers* must not at this stage be asked to resubmit information that has already been submitted in the primary process)
 - b. **direct source, based on the best fit for purpose:** A fair evaluation of all *panel suppliers*, which **must** include a **best value assessment** documenting (Rule 46) how the *supplier* was chosen based on capacity, capability, risk, *public value*, and due diligence and include this information in the *contract award notice*

- c. **rotation:** Award opportunities to each supplier in turn provided they are able to offer good *public value*
- d. **equal division of the work:** Fix an upper limit for the amount of work that can be awarded to each *panel supplier* and award opportunities on a rotational basis. When a *panel supplier* reaches the upper limit, the agency chooses the next supplier from the panel
- e. **location:** Award opportunities to the *panel supplier* who is best able to deliver based on their location and the location of the work.

8. Agencies **must** use competitive *secondary procurement* processes, unless there is a good reason not to.
9. Agencies **must** publish a *contract award notice* for *secondary procurements* when the value is \$10,000 or greater.
10. Agencies **must** report panel spend annually to the *Procurement System Leader* (Rule 45), where they have not published a contract award notice under paragraph 9, setting out:
 - a. estimated total spend
 - b. actual total spend
 - c. number of contracts awarded to each supplier on the panel
 - d. value of contracts awarded to each supplier on the panel.

FURTHER INFORMATION

Supplier panels

A supplier panel is a type of supplier list, however individual contract opportunities that meet or exceed the value threshold do not need to be openly advertised when procuring from an established panel of suppliers. These are secondary procurements, and the agency **must** select suppliers from the panel in accordance with the secondary procurement method(s) outlined in the panel guide (Rule 23).

When a panel of suppliers is appropriate

A panel of suppliers is a list of suppliers who have been pre-approved by an agency and who have agreed to the terms and conditions for supply.

A panel of suppliers is appropriate when an agency wants to:

- a. verify which suppliers are capable of delivering specific goods, services or works
- b. agree in advance with each supplier the terms and conditions of supply of the goods, services or works, including the pricing (e.g. agreed hourly fee) or the pricing mechanism that will apply.

Transparency

Providing information on which categories of goods and services agencies procure through panel contracts is useful for suppliers to know and understand. It helps them to target their engagement with agencies to areas of interest and areas where there is a real prospect of supplying government.

To understand government procurement expenditure, it is necessary to have information on the spend under panel contracts. Some of this spend will be small and transactional, meaning it may not be practical to publish a contract award notice. An annual report that sets out basic information on panel expenditure would improve panel transparency and give the Procurement System Leader a better understanding of government procurement spend.

Secondary procurement process

Agencies may use more than one method for secondary procurement depending on the volume of work that will go through the panel. In most instances, agencies should not use more than two secondary procurement methods. This must be explained in the Notice of Procurement and the Panel Guide.

Regardless of the methods used, agencies must be able to show that they are achieving public value.

Procurement advice

Competitive secondary procurement processes (such as a Request for Quote) involving a selection, or all of the panel suppliers will usually result in better public value. It also gives capable panel suppliers the opportunity to compete.

There may be some circumstances when a competitive process may not be appropriate. For example, if the procurement is low risk and low value or if you already have all the necessary information you need to make a decision.

Whatever secondary method is used; it needs to feature in the Notice of Procurement.

The Notice of Procurement

The Notice can be a one-off Notice to establish the panel, a standing Notice which is made available continuously on GETS that allows interested suppliers to respond on an ongoing basis or an occasional Notice that is published when an agency wants to refresh or expand the panel.

Rule 24: Pre-qualified suppliers list

PRIMARY REQUIREMENT

1. Agencies that establish a *pre-qualified suppliers list* must openly advertise individual contract opportunities that meet or exceed the value thresholds of \$100,000 for goods, services and refurbishment works and \$9 million for construction works.

APPLICATION

2. To establish a *pre-qualified suppliers list*, agencies must:
 - a. publish an *invitation to qualify* (a type of Notice of Procurement) on GETS and make it continuously available
 - b. allow suppliers to respond to the invitation at any time or by specific deadlines for responses

- c. include the following information in the invitation:
 - i. the agency's name and address and contact details for the person managing the process
 - ii. a clear description of the goods, services or works suppliers **must** be capable of delivering
 - iii. any conditions that suppliers **must** meet to participate and how the agency will check they meet them
 - iv. how long the list will be active for and how it will be refreshed or terminated.
- d. assess applicants within a reasonable timeframe and add qualified suppliers to the list as soon as possible
- e. notify unsuccessful applicants promptly and, if requested, provide the reason/s why.

3. If a *contract opportunity* arises that a *pre-qualified suppliers list* was established for, agencies **must**:
 - a. openly advertise the *contract opportunity* on GETS.
 - b. make qualification information clear in its documentation
 - c. allow any unqualified supplier to submit an application to qualify.
4. If a supplier submits an application to qualify, agencies **must**:
 - a. promptly assess the application
 - b. allow a supplier who is successful in becoming pre-qualified to take part in the contract opportunity, if time allows
 - c. notify the supplier of the decision as soon as possible.
5. To operate a *pre-qualified suppliers list*, agencies **must**:
 - a. keep an updated list and make this publicly available at all times
 - b. notify *pre-qualified suppliers* if the list is terminated or they are removed from the list
 - c. not use the pre-qualification process to obtain price information from suppliers
 - d. when a supplier is removed from a *pre-qualified supplier list*, explain why.

FURTHER INFORMATION

Agencies may establish a pre-qualified suppliers list if it regularly undertakes a specific type of procurement and wants to:

- verify which suppliers can deliver specific goods, services or works
- make it easier for suppliers to respond to contract opportunities by only asking for qualifying information once.

When a supplier is added to a pre-qualified suppliers list it does not result in a contractual or legal relationship between the agency and the pre-qualified supplier.

A pre-qualified supplier may still need to meet other evaluation criteria each time the agency wishes to purchase goods, services or works the supplier has qualified to deliver.

Pre-qualification is not the same as a multi-step procurement (e.g. Registration of Interest followed by a Request for Proposal). Pre-qualified suppliers have the potential to win contracts over time but are not guaranteed any work.

Pre-qualified suppliers should make sure that they are listed on GETS under the correct tender watch code/s to receive notifications.

Pre-qualified suppliers do not need to respond to questions relating to qualification. Agencies should make qualification information clear in the documentation.

Rule 25: E-auction

PRIMARY REQUIREMENT

1. Agencies must notify suppliers in advance if it intends to run an e-auction.

APPLICATION

2. The advance notice must be in the *Notice of Procurement* and must include:
 - a. a summary of the Rules that will apply to the e-auction
 - b. the specific criteria that will be used in the e-auction.
3. The automated evaluation method used in an e-auction must be based on the criteria set out in the *Notice of Procurement*.
4. Before beginning an e-auction, agencies must provide each participating supplier with:
 - a. a summary of the results of its initial tender evaluation
 - b. the automated evaluation method that will be used to re-rank suppliers based on their e-bids
 - c. the formula that the automated evaluation method is based on
 - d. training on how to use the hosted e-auction website or software, if requested
 - e. any other relevant information about how the e-auction is run.

FURTHER INFORMATION

More information on e-auctions

An e-auction is an online reverse auction. It gives suppliers the opportunity to bid against each other to improve their offers. An e-auction can be run on specialist in-house software or as a hosted service.

It takes place in real time. The benefits of an e-auction include:

- the negotiation process is paperless and streamlined
- the negotiation takes less time
- the process of awarding the contract is more transparent
- it discourages collusion and bid-rigging.

Rule 26: Due diligence

PRIMARY REQUIREMENT

1. Agencies **must** undertake due diligence appropriate for the size, value, and risk of the procurement throughout the procurement lifecycle.

APPLICATION

2. At a minimum and as appropriate, due diligence **must** include verifying that a supplier:
 - a. is who they claim to be by looking at their legal set-up, including beneficial ownership
 - b. is financially sound by checking their financial history
 - c. can be trusted – check corruption indicators, publicly available lists of sanctioned companies or the police
 - d. has good past performance for delivery, compliance with appropriate health and safety and employment practices and has sound ethics and management practices
 - e. has the capacity, capability and expertise to deliver, based on past performance
 - f. has the right systems and processes to be able to deliver
 - g. can deliver what you need for the price quoted – test the assumptions in the proposal
 - h. understands the contract deliverables and requirements and their obligations.
 - i. should not be excluded from a procurement process under any of the conditions set out in Rule 29.

FURTHER INFORMATION

For further information and understanding appropriate due diligence process:

[Conducting due diligence checks | New Zealand Government Procurement.](#)

Rule 27: Managing National Security Risks

PRIMARY REQUIREMENT

1. Agencies **must** manage national security risks in their procurement.

APPLICATION

2. Agencies **must** conduct a risk assessment using the tool below to identify national security risks when planning their procurement
3. Agencies **must** manage national security risks in their procurement
4. Agencies **must** consider excluding a supplier from participation if they pose a threat to national security or the confidentiality of sensitive government information (Rule 29.2.i)

FURTHER INFORMATION

Identifying and managing national security risks in procurement

This risk-assessment tool helps agencies identify and manage national security risks in procurement. It will help you to identify where a material risk to national security might be and what you should do to mitigate or manage it.

1. Will the contract give the supplier access to, or control of:

Sensitive premises, for example,

- facilities used to hold, or access classified information
- control rooms
- laboratories or other research facilities
- areas where individuals are working on matters related to New Zealand's domestic, foreign, security, or defence policy.

Bulk or sensitive data holdings, for example,

- information on a large number of New Zealanders
- information classified as "restricted" or above
- information on a group of sensitive category individuals
- research or other kinds of valuable intellectual property
- government priorities where the information could be exploited to the detriment of New Zealand or New Zealanders
- sensitive networks, for example, government or university IT networks.

Critical services, for example,

- services provided by lifeline utilities (essential infrastructure services such as water, transport, energy etc)
- government services such as tax collection, welfare provision or health and emergency services.

Proximate access (line of sight over, or into) to sensitive Government sites, such as defence installations or facilities used to hold or access classified information.

If the answer is 'no', this contract is unlikely to raise material national security risks, regardless of the supplier.

If the answer is 'yes' to any of these, move on to question 2.

2. Is it NOT possible to adequately avoid or mitigate the security risks associated with this control or access?

For example:

- You cannot put physical or digital barriers in place that limit access to the sensitive material, premises, or networks.

- You cannot limit the individuals that have access to the sensitive material to named and known individuals or require a Police or other security check before giving access.

If the answer is 'no', this contract is unlikely to raise material national security risks – irrespective of the supplier.

If the answer is 'yes', you should consider the response to question 3.

3. Is the supplier:

- a. **potentially going to act in a way that is contrary to New Zealand's national security interests?**

Consider, is A owned or controlled by a foreign state? Meaning, does a foreign state (including through sovereign wealth funds) have:

- More than 25% of any class of A's securities?
- The power to control the composition of more than 25% of A's governing body (for example, Board)?
- The right to exercise or control the exercise of more than 25% of the voting power at a meeting of A?
- The legal right to direct A to undertake activities consistent with the relevant foreign state's strategic security objectives?

If the answer is 'yes', this increases the risk of this supplier.

Potential mitigations

If national ownership is through a wealth (or other type of investment) fund, does the relevant foreign state exercise control over the entity? Or are there appropriate limitations to ensure that no foreign state or government can influence individual investment decisions, or the management of individual investments, other than on commercial terms?

If there are limitations on control and influence, this reduces the risk of this supplier.

If there are connections to a foreign state, is this state likely to pose a national security risk to New Zealand?

- b. **are the suppliers in the supplier's supply chain (B) likely to act in a way contrary to New Zealand's national security interests?**

Consider:

- Does B have access to or control over A's physical or digital assets?
- If so, can this be used to gain access to or control over your assets?
- If so, is B owned or controlled or influenced by a foreign state (determined with reference to the matters discussed in question 3a)?

Potential mitigations

Can B's access to you be limited contractually? For example, requirements for A to use an alternative supplier as a condition of the contract, or for B to not have access to information on the services provided to the procurer?

Next steps

If the answer to question 3(a) and 3(b) is 'no', this contract is unlikely to raise material national security risks.

If, the answer is 'yes' and there are not appropriate mitigations in place or available, this supplier could pose a risk to New Zealand's national security.

If you answered 'Yes' to any question proceed through this guidance [Managing National Security Risks in Procurement](#).

You can document your application of this guidance in any way that best suits your agency.

Part Two – Procurement lifecycle steps

- Awarding the contract

Rule 28: Treatment of responses

PRIMARY REQUIREMENT

1. Agencies must treat all suppliers' responses fairly.

APPLICATION

2. Agencies must have in place procedures that guarantee that all suppliers' responses are treated fairly. This includes receiving, opening and evaluating responses.
3. To be considered for an award of contract, a supplier must:
 - a. Submit its response in writing, unless an agency has agreed to accept an oral response
 - b. Comply with all *pre-conditions* (Rule 15) if any, or other conditions for participating in the contract opportunity.
4. If an agency has agreed to accept an oral response, it must maintain an accurate record of the response.

FURTHER INFORMATION

Maintaining record of an oral response

While it is at the discretion of the agency and supplier to decide how to record an oral response, the record must accurately reflect the supplier's response, and the agency must be able to demonstrate adequate probity.

Late responses and correcting errors

An agency must not penalise a supplier who submits a late response, if the delay has been caused by the agency.

If, after opening the responses but before completing the evaluation, an agency offers a supplier the opportunity to correct unintentional errors, it must offer the same opportunity to all participating suppliers.

Rule 29: Reasons to exclude a supplier

PRIMARY REQUIREMENT

1. Agencies **may** exclude a supplier from participating in a contract opportunity if there is a good reason for exclusion.

APPLICATION

2. Reasons for exclusion include:
 - a. bankruptcy, receivership or liquidation
 - b. making a false declaration
 - c. fraud, corruption and anti-competitive behaviour (e.g. *bid-rigging*, bribery including foreign bribery, *collusion*, etc)
 - d. a serious performance issue in a previous contract
 - e. a conviction for a serious crime or offence
 - f. professional misconduct
 - g. an act or omission that adversely reflects on the commercial integrity of the supplier or offends against the Supplier Code of Conduct
 - h. failing to pay taxes, duties or other levies
 - i. a threat to national security or the confidentiality of sensitive government information
 - j. the supplier is designated as a terrorist entity in New Zealand under the [Terrorism Suppression Act 2002](#)
 - k. human rights violations associated with the supplier or in the supplier's supply chain
 - l. suppliers sanctioned by the New Zealand government
 - m. failure to disclose or falsely reporting beneficial ownership, where requested
 - n. any matter that materially diminishes an agency's trust and confidence in the supplier.
3. Agencies **must not** exclude a supplier unless it has evidence supporting the reason for the exclusion.
4. Agencies **must** notify a supplier of its exclusion and the reasons for it.

FURTHER INFORMATION

Reasons for exclusion

The list included in Rule 29.2 is a non-exhaustive list of reasons for exclusion.

Bid-rigging

If you discover that the same errors appear in responses from different suppliers (e.g. misspelled words or the same mathematical mistakes), this may indicate that these suppliers have shared information (e.g. cut and pasted content from each other's responses) and may be acting anti-competitively.

For more examples and guidance on detecting and preventing bid-rigging, see the Commerce Commission's fact sheets: [How to recognise and deter bid rigging\(external link\)](#).

A conviction for a serious crime or offence includes a conviction for foreign bribery (getting an advantage in an international transaction by offering bribes to foreign officials). Staff engaged in procurement need to be aware of where and how to report foreign bribery, potential corrupt actions or other serious offences.

For more information, read the Organisation for Economic Cooperation and Development's [Fighting foreign bribery | OECD](#).

For information about New Zealand law relating to bribery see the [Serious Fraud Office](#).

Rule 30: Awarding the contract

PRIMARY REQUIREMENT

1. Agencies **must**, unless there is a legitimate reason to cancel the procurement, award the contract to the supplier/s that can demonstrate that it has the capability and capacity to deliver the requirements, meet the contract conditions, and offer the best *public value*.

APPLICATION

2. If a supplier offers a price that is substantially lower than other responses (an abnormally low bid), an agency may seek to verify with the supplier that the supplier is capable of both:
 - a. satisfying all of the conditions for participation, if any, and
 - b. fully delivering all of the contract requirements (e.g. quality, quantity, time and location), any other stated objectives, and meeting all of the contract conditions for the price quoted.
3. Agencies **must not** cancel a procurement, use options, or modify or terminate an awarded contract to avoid applying the Rules.
4. When a procurement has been cancelled, agencies **must** promptly publish a cancellation notice on GETS that sets out the reasons why the procurement has been cancelled.

FURTHER INFORMATION

Examples of reasons to cancel a procurement

A legitimate reason to cancel a procurement could include:

- a change of policy
- a change to an appropriation that affects funding for the initiative
- no supplier has offered a satisfactory solution or an acceptable price, or one that represents public value
- a Ministerial direction.

Abnormally low bids

Look out for abnormally low bids. An abnormally low bid may reflect a more efficient supplier or one that is willing to make an investment in the relationship by taking a lower margin on the contract. Such competitive responses should be encouraged. But an abnormally low bid could impact negatively on service delivery. It could even indicate that the supplier is involved in a cartel or taking advantage of its market power in breach of section 36 of the [Commerce Act 1986](#).

For more information, [How to recognise and deter bid rigging](#) from the Commerce Commission New Zealand website

Rule 31: Informing suppliers of the decision

PRIMARY REQUIREMENT

1. Agencies must promptly inform all unsuccessful suppliers in writing of the decision.

FURTHER INFORMATION

It is good practice to inform suppliers that you do not intend to enter negotiations with, within two to three weeks of making this decision.

Keeping suppliers informed

It's good practice to let participating suppliers know where they stand after evaluating the responses. You should tell suppliers when they have been unsuccessful.

However, in some instances you may want to keep competitive tension between the top-ranking suppliers. If there is more than one supplier who is capable of delivering the contract, you may want to negotiate with the top-ranked supplier and reserve your position with the second-ranked supplier. If the negotiations with the top-ranked supplier fall through, you may then offer to negotiate with the next-ranked supplier. In this case, an agency can tell other highly ranked

suppliers that you are negotiating with the preferred supplier and, should negotiations fail, they may still be considered for the contract opportunity.

Rule 32: Contract award notice

PRIMARY REQUIREMENT

1. Agencies **must** publish a *contract award notice* on GETS within 30 business days of all parties signing the contract/s.

APPLICATION

2. The contract award notice **must** include:
 - a. the agency's name and address
 - b. the successful supplier's or suppliers' name/s and address/s
 - c. a description of the goods, services or works
 - d. the date the contract/s was awarded
 - e. the term of the contract/s
 - f. the expected spend under the contract/s, or the highest and lowest offers the agency evaluated to award the contract
 - g. the type of procurement process used
 - h. if the agency claimed an opt-out (Rule 11) or exemption from open advertising (Rule 12), the circumstances that justify the opt-out or exemption
 - i. a New Zealand Business Number (NZBN) where available
 - j. any other information, as requested by the Procurement System Leader, for example information on economic benefits to New Zealand.
3. The *Procurement System Leader* may publish a report identifying contracts notified on GETS for which a *contract award notice* has not been published.

FURTHER INFORMATION

Expected spend

The expected spend (Rule 32.2.f) under the contract could be the contract price, if this is fixed, or an estimate of the total value of the contract over its life.

For panel contracts established under Rule 23, this could be an estimate of the historical spend for the category of goods and services covered by the panel.

Rule 33: Debriefing suppliers

PRIMARY REQUIREMENT

1. Agencies must offer each unsuccessful supplier a *debrief*.

APPLICATION

2. Agencies must debrief suppliers that ask for a *debrief* within 30 *business days* of the date the contract was signed by all parties, or 30 business days of the date of the request, whichever is earlier.
3. Agencies must provide information at the *debrief* that helps the supplier to improve future tenders or responses.
4. At a minimum, the *debrief* must:
 - a. include the reason/s the proposal was not successful
 - b. explain how the supplier's proposal performed against the criteria or any pre-conditions (Rule 15) and its relative strengths and weaknesses
 - c. explain the relative advantage/s of the successful proposal
 - d. address the supplier's concerns and questions.
5. At the *debrief*, agencies must not disclose another supplier's confidential or *commercially sensitive information* (Rule 5).

FURTHER INFORMATION

More information on debriefing

You must offer suppliers a full debrief. Telling suppliers about the strengths and weaknesses of their proposal gives them an opportunity to improve future proposals.

Agencies that debrief suppliers will have fewer complaints.

You can debrief suppliers by phone, email, letter, or at a meeting. The method you choose should reflect the nature and complexity of the procurement.

See the guide to supplier debriefs and checklist for supplier debriefs for more information.

[Guide to supplier debriefs \[PDF, 289 KB\]](#)

[Checklist for supplier debriefs \[DOCX, 61 KB\]](#)

Rule 34: Contract Management System

PRIMARY REQUIREMENT

1. Agencies must have a systematic approach for identifying the contracts that it has.

APPLICATION

2. An agency's contract management system must include:
 - a. The name of the supplier
 - b. Where a copy of the contract is stored
 - c. The name or position of the agency's senior responsible officer responsible and accountable for the contract
 - d. Where the contract manager can obtain commercial support, if needed
 - e. Contact details for the supplier
 - f. Start and end date for the contract
 - g. The ability to ascertain the actual amount spent under the contract.

FURTHER INFORMATION

Systematic way of identifying contracts

An organisation should have a method that enables them to readily know what contracts they have and details about them. There is no one set way to record and manage your agency's contracts. Some agencies may have a contract management system while others may rely on its financial system or have a contract register or spreadsheet that captures this information.

Rule 35: Contract Management Plan

PRIMARY REQUIREMENT

1. Agencies must have a contract management plan that is right sized based on the contract's value, complexity, risk, and duration.

APPLICATION

2. Contract management plans must include:
 - a. Clear governance arrangements
 - b. Relevant and proportionate performance metrics against which suppliers will be measured
 - c. Appropriate and transparent performance monitoring provisions, including due diligence to be conducted.
3. Agencies must:

- a. conduct sufficient monitoring of contracts to ensure that commitments made in contracts are delivered and reported on
- b. keep records of their contract management activities.

FURTHER INFORMATION

Contract management

Good contract management is vital to delivery and to the health of the procurement system. It enables the agency to understand progress, identify issues and resolve them effectively. The Procurement System Leader may need to understand what contract management has taken place where performance and delivery issues have come to their attention.

Contract management includes tracking and monitoring delivery and costs, managing risks and relationships, conducting reviews and resolving problems. Good contract management is critical to delivery of the contract.

A contract management plan should include the objectives of the contract, key terms and conditions, and the price. The contract management plan and level of contract management should always be right sized for the procurement. A low value, low risk contract is unlikely to require any contract management beyond an email to the supplier once a year.

See the guidance on contract management.

[Manage the contract | New Zealand Government Procurement](#)

See also:

- [Contract management — Audit New Zealand](#)
- [Contract management — Office of the Auditor-General New Zealand](#)

Supplier relationship management (SRM)

Agencies should use SRM when there are strategic objectives they want to achieve from their contracts (e.g. secure better relationships with key suppliers). SRM enables agencies to categorise suppliers based on the value they provide to the agency and how this value compares to the agency's other suppliers. This enables agencies to assess which suppliers they should focus contract management activities on.

See guidance on how to conduct an SRM exercise.

[Introduction to supplier management | New Zealand Government Procurement](#)

Rule 36: Prompt payment times

PRIMARY REQUIREMENT

1. Agencies must pay 90% of:
 - a. domestic trade eInvoices within 5 business days
 - b. other domestic trade invoices within 10 business days.
2. Agencies must require their suppliers to pay their subcontractors on no less favourable payment terms than the ones they receive from agencies.

APPLICATION

3. Agencies must report on domestic eInvoice and domestic trade invoice payment times to MBIE quarterly, so these can be made publicly available.

FURTHER INFORMATION

Rule 36 requirement takes effect from 1 January 2025

Rule 36 requirement to pay domestic trade invoices within 10 business days takes effect from 1 January 2025. From 1 January to 31 December 2025, agencies are required to pay 90% of domestic trade invoices within the timeframes specified in Rule 36.

Rule 36 requirement from 1 January 2026

Rule 44 requirement to be eInvoice capable and Rule 44 requirement to pay domestic trade eInvoices within 5 business days takes effect from 1 January 2026. From 1 January 2026 agencies will be required to pay 95% of domestic trade eInvoices and other domestic trade invoices within the timeframes specified in Rule 36.

When the payment requirement applies from and how to treat incorrect or disputed invoices

The payment requirements apply from the day an invoice is entered into an accounts payable system. This may differ from the date specified on the invoice.

The invoice payment time requirements set out in Rule 36 will not apply if:

- the goods, services or works are unsatisfactory or incomplete
- the invoiced amount is in dispute
- an invoice is incomplete or incorrectly rendered

Types of invoices that Rule 36 applies to

The requirement only applies to invoices related only to domestic trade credit that are received or sent by an agency in the ordinary course of its business.

Types of payments that are out of scope

Requests for payment that are out of scope include:

- reimbursement of employee expenses
- rents, leases and utilities (office space, power, telecoms etc)
- credit card statements, finance payments, and insurance premiums
- payments made regularly as part of an ongoing contract, which don't require an invoice, such as progress payments on a roading contract.

Requests for payment in these contexts are not considered invoices for the purposes of the Procurement Rule. Including them would skew payment time reporting and add unnecessary complexity.

Quarterly reporting

Agencies must report on domestic eInvoice and domestic trade invoice payment times to MBIE quarterly. MBIE can require agencies to report monthly if they are not meeting payment time targets.

MBIE will provide key finance contacts in agencies with further information about the reporting requirements.

MBIE publishes invoice payment times.

[Central Government agencies' invoice payment times - Ministry of Business, Innovation and Employment](#)

Definitions – for purposes of this rule

Invoice is a document or electronic message that signals a requirement to pay for goods or services that the business issuing the invoice has provided the agency. Invoices must contain the required information and be sent to the right address.

Domestic means that the requested payment is in \$NZD, for goods or services supplied within New Zealand, by an entity that carries on business in New Zealand.

Electronic invoicing (eInvoicing) is the direct exchange of digital invoice information between a supplier's and a buyer's software or systems using the secure Peppol (Pan-European Public Procurement Online) network and common standard. The New Zealand and Australian governments have committed to a joint approach to eInvoicing using Peppol, a global standardised framework that enables businesses to exchange procurement documents electronically.

Trade credit is where there is agreement for a delay between supply of goods or services and payment for those goods or services. In other words, the good or service must already have been provided (to the required standard and quantity).

Ordinary course of business means that, for the agency making payment, the invoice is usual or otherwise unremarkable (that is, invoices of that type would be processed regularly, using the standard accounts payable process). This excludes invoices that are so significant that extraordinary checks and approvals are required (for example, payments for significant infrastructure).

Part Three – Procurement System Requirements

Rule 37: Future Procurement Opportunities

PRIMARY REQUIREMENT

1. Agencies **must** publish notices of *Future Procurement Opportunities* (FPOs) on the Government Electronic Tenders Service (GETS).

APPLICATION

2. Agencies **must** review and update FPOs on GETS regularly, at least every six months.

FURTHER INFORMATION

FPOs are for planning purposes and do not represent an invitation for bids or pre-solicitation. It is not a commitment by the agency to purchase the described goods, services or works.

Future Procurement Opportunities are intended to help agencies plan their future procurement activities and give suppliers advance notice of possible contract opportunities. For more guidance, see: [Future procurement opportunities | New Zealand Government Procurement](#).

Secondary procurement

It is useful for suppliers if agencies publish categories of spend it intends to make via secondary procurement, as long as it is made clear that these contracts will not be openly advertised on GETS.

Rule 38: All-of-Government contracts

PRIMARY REQUIREMENT

1. Agencies **must** purchase from an *All-of-Government (AoG) contract*, unless there is a good reason not to.

APPLICATION

2. Agencies who want to opt-out of purchasing from an AoG, must get approval from the *Procurement System Leader*. If an agency and the Procurement System Leader fail to agree to an opt-out, the Public Service Commissioner will decide the matter.
3. *[To come into force after the new procurement platform is operational: All agencies must use the new procurement platform when procuring from AoG panel contracts.*
4. *Agencies not conducting their procurements through the new procurement platform must report manually to the Procurement System Leader on AoG procurement spend, including:*
 - a. *estimated spend*
 - b. *actual spend*
 - c. *name of supplier/s awarded contract/s*
 - d. *value of contracts awarded to each supplier.]*

FURTHER INFORMATION

More information on AoG contracts

Agencies should purchase from AoGs regardless of the value of the procurement.

The term applies only where an AoG contract initiative is coordinated by the Procurement System Leader through New Zealand Government Procurement. An agency wishing to opt-out of joining an AoG contract should [email us](#) in the first instance.

For more information on the categories of goods and services available and how to buy from [AoG contracts](#).

Rule 39: Common Capability contracts

PRIMARY REQUIREMENT

1. A *Common Capability contract* (CC) must only be established by a *System Leader*, or an agency that has approval and oversight from a System Leader.

APPLICATION

2. CCs may cover mandatory and/or voluntary common capabilities:
 - a. **Mandatory common capabilities:** Some agencies must purchase certain goods, services or works from a Common Capability Contract
 - b. **Agencies must get approval from the relevant System Leader to opt-out of purchasing from a mandatory Common Capability Contract**
 - c. **Voluntary common capabilities:** when a common capability is voluntary, an agency is expected to purchase from the CC when it reasonably meets the agency's needs.

3. Agencies must check if there is an existing CC contract that meets its needs before approaching the market. CCs are listed on the collaborative [contracts register](#).

FURTHER INFORMATION

A Common Capability contract (CC) is a type of approved collaborative contract. CCs establish various supply agreements with approved suppliers for selected common goods or services or works purchased across government.

More information about mandatory common capabilities is available on the [Eligibility page](#) on the NZGP website and [Buying products and services](#) on the Digital.govt.nz website.

CC-ICT contracts

Common Capability contracts are being used in the procurement of information, communication and technology (ICT) goods and services. These are called CC-ICT contracts.

CC-ICT contracts are usually overarching agreements entered into by a System Leader (or another agency with System Leader oversight) with suppliers.

These contracts are developed under the oversight of the Government Chief Digital Officer (GCDO) at the Department of Internal Affairs (DIA) (as the System Leader for Government ICT), in collaboration with others and with the approval of the Procurement System Leader.

Seamless provision of ICT goods and services

Given the often complex nature of ICT, some of these contracts are designed to allow, where appropriate, private sector suppliers to work together to supply seamless end-to-end ICT goods and services to agencies. This means that agencies and, where authorised, suppliers acting on behalf of agencies or supplying services to agencies may purchase from these contracts.

Find more information on CC contracts at [Selling products and services | NZ Digital government](#)

Rule 40: Syndicated contracts

PRIMARY REQUIREMENT

1. Agencies must obtain approval from the *Procurement System Leader* before establishing an *Open Syndicated Contract* (OSC).

APPLICATION

2. Agencies must check if there is an existing OSC that meets its needs, before approaching the market. OSCs are listed on the collaborative [contracts register](#).

FURTHER INFORMATION

More information on syndicated contracts

A syndicated contract is a type of approved collaborative contract. Syndicated contracts typically involve a group of agencies aggregating their respective needs and collectively going to market for goods, services or works. There are two types of syndicated contract:

An Open Syndicated Contract (OSC) includes a common use provision allowing other, unspecified agencies to contract with the supplier on the same terms at a later stage.

A Closed Syndicated Contract is limited to a group of named agencies.

[Syndicated procurement guide \[PDF, 282 KB\]](#)

Rule 41: Infrastructure

PRIMARY REQUIREMENT

1. Agencies considering the procurement of infrastructure with a total capital value of more than \$100 million where the project may involve private finance including Public Private Partnerships **must** consult with National Infrastructure Funding and Financing Ltd early in the development of the project's business cases

APPLICATION:

2. Agencies **must**:
 - a. follow relevant Treasury and National Infrastructure Funding and Financing Ltd policies and guidance
 - b. invite National Infrastructure Funding and Financing Ltd to participate on relevant project working groups and as an observer (or member as requested by agencies) on steering groups, and in the selection panels for key advisor appointments in relation to the project
 - c. use any standard form documentation developed by Treasury as the basis for any private financing components of an infrastructure contract and consult with Treasury and National Infrastructure Funding and Financing Limited over any material proposed modifications.
3. Agencies with low infrastructure delivery capability considering the procurement of infrastructure **must**:
 - a. engage with Crown Infrastructure Delivery Ltd
 - b. follow relevant Treasury policies and guidance
 - c. invite Crown Infrastructure Delivery Ltd to participate on relevant project steering groups and working groups.

FURTHER INFORMATION

For more information on National Infrastructure Funding and Financing Ltd policies and guidance:
[National Infrastructure Funding and Financing | New Zealand](#)

For more information on Crown Infrastructure Delivery Ltd:
[Crown Infrastructure Delivery | Crown Infrastructure Delivery](#)

Rule 42: Business cases and investment decisions

PRIMARY REQUIREMENT

1. Agencies must obtain Cabinet approval for certain types of expenditure, lease or asset disposal proposals.

APPLICATION

2. If an agency wants to undertake a project which meets certain criteria, it must consult with Treasury and the project proposal will be assessed and reviewed against Treasury's published better business cases framework.
3. The criteria for determining which investment decisions require Cabinet approval and guidance on the [better business cases](#) framework are available on the Treasury website.

FURTHER INFORMATION

Cabinet approval is required for certain types of expenditure, e.g. lease or asset disposal proposals by departments, Crown Agents and other Crown Entities.

The criteria for determining which investment decisions require Cabinet approval is set through the relevant Cabinet Office Circular linked on the Treasury's [Investment Management System website](#), along with [guidance on investments, roles and requirements](#), and the [Better Business Case](#) framework.

Rule 43: Investment reviews

PRIMARY REQUIREMENT

1. Agencies must complete a [Risk profile assessment](#) (RPA) and submit it to Treasury if the result is medium or high-risk for all projects and programmes defined as investments under the relevant Cabinet Office circular on the Treasury's [Investment Management System website](#).

FURTHER INFORMATION

Who is involved in the review?

To assess the RPA and determine whether investment reviews are required, Treasury works with System Leaders appointed by the Cabinet to provide leadership across government on specific areas such as procurement, information technology and property investment.

Investment reviews are organised by Treasury; reviewers are independent of Central Agencies and System Leads.

For more information see investment reviews [investment reviews](#) on the Treasury website.

Rule 44: eInvoicing capability

PRIMARY REQUIREMENT

1. Agencies that:
 - a. receive more than 2,000 domestic trade invoices annually must be capable of receiving eInvoices through their primary accounts payable system(s)
 - b. send more than 2,000 domestic trade invoices annually must be capable of sending eInvoices through their primary accounts receivable system(s).
2. Agencies must require large suppliers to submit eInvoices.

FURTHER INFORMATION

Implementation

Agencies must meet the requirements of Rule 44 to be eInvoice capable by 1 January 2026.

Types of invoices that Rule 44 applies to

The requirement only applies to invoices related only to domestic trade credit that are received or sent by an agency in the ordinary course of its business.

Types of payments that are out of scope

Requests for payment that are out of scope include:

- reimbursement of employee expenses
- rents, leases and utilities (office space, power, telecoms etc)
- credit card statements, finance payments, and insurance premiums
- payments made regularly as part of an ongoing contract, which don't require an invoice, such as progress payments on a roading contract.

Requests for payment in these contexts are not considered invoices for the purposes of the Procurement Rule. Including them would skew payment time reporting and add unnecessary complexity.

Definitions for purposes of this rule

Domestic means that the requested payment is in \$NZD, for goods or services supplied within New Zealand, by an entity that carries on business in New Zealand.

Electronic invoicing (eInvoicing) is the direct exchange of digital invoice information between a supplier's and a buyer's software or systems using the secure Peppol (Pan-European Public Procurement Online) network and common standard. The New Zealand and Australian governments have committed to a joint approach to eInvoicing using Peppol, a global standardised framework that enables businesses to exchange procurement documents electronically.

Trade credit is where there is agreement for a delay between supply of goods or services and payment for those goods or services. In other words, the good or service must already have been provided (to the required standard and quantity).

Ordinary course of business means that, for the agency making payment, the invoice is usual or otherwise unremarkable (that is, invoices of that type would be processed regularly, using the standard accounts payable process). This excludes invoices that are so significant that extraordinary checks and approvals are required (for example, payments for significant infrastructure).

You can find eInvoicing information and resources specific to government agencies on the MBIE eInvoicing page.

Advice for government agencies - eInvoicing

If you use a finance platform that requires an Access Point Provider to enable eInvoicing, there is an open government syndicated panel.

Government open syndicated agreement: PEPPOL capabilities and associated services

Rule 45: Reporting

PRIMARY REQUIREMENT

1. Agencies must report on their procurement activities to the *Procurement System Leader* to enable system performance monitoring and support system-level decision making.

APPLICATION

2. The *Procurement System Leader* may publish data and information if it is in the public interest.

FURTHER INFORMATION

Current tools used by the Procurement System Leader for monitoring performance of the procurement system include the Procurement Capability Index (PCI) and the Significant Service Contracts Framework (SSCF).

The PCI is a self-assessment of organisational capability done annually and due by 1 October each year. The Procurement System Leader may, at its discretion, exempt an agency from having to submit a PCI self-assessment.

Significant service contracts are the important contracts that your agency manages. These contracts include:

- services that are critically important to the delivery of business objectives of an agency; and
- pose a significant risk and/or significant impact in the event of supplier failure.

SSCF reporting is due when requested by the Procurement System Leader.

Rule 46: Maintaining records

PRIMARY REQUIREMENT

1. Agencies must document the procurement process, all decisions, the contract awarded and include all recommendations and reports.

APPLICATION

2. An agency must keep records of each procurement for at least three years from the date the contract was signed by all parties.
3. Agencies must make records of each procurement available for audit purposes.

FURTHER INFORMATION

Recording the process

The procurement process includes planning, sourcing, evaluations, meetings, issues and resolutions, recommendations and decisions. Each step should be thoroughly documented and maintained as records.

An agency may store the records electronically, if its system complies with requirements of the [Public Records Act 2005](#). Disposal of records is subject to the authorisation of the Chief Archivist, in accordance with the Public Records Act 2005.

Rule 47: Approved Government Model Templates

PRIMARY REQUIREMENT

1. Agencies **must** operationalise *Approved Government Model Templates* (A-GMTs) in their procurement activities, regardless of whether or not the Rules apply to the procurement.

APPLICATION

2. Agencies **must** use A-GMTs as the default templates for all low-value, low-risk common goods and services.
3. Agencies **must** include A-GMTs in their suite of contract templates.

FURTHER INFORMATION

Approved Government Model Templates

The Procurement System Leader issues Approved Government Model Templates (A-GMTs) from time to time.

A-GMTs are a set of approved templates that you are required to deploy in your procurement activities and should not be confused with general procurement templates (e.g. the contract register template which agencies can opt to use).

It is not advisable to change the template; it undermines the efficiencies and advantages obtained from standardisation.

An example of an A-GMT is the Government Model Contract (GMC).

For more information see the [government model contracts](#).

Tools and templates you are encouraged to use

There are other tools and templates available which make the procurement process more efficient.

They include the RFx templates and document builder - agencies are encouraged to use these tools.

- [Guide to using Government Model Contract templates - 3rd edition](#)
- [Government Model Contract | New Zealand Government Procurement](#)
- [Government model RFx templates](#)

Part Four – General information

Application of the Rules

New Zealand's central government is made up of agencies in the public service, state services and state sector. A full list of these agencies is available on the Te Kawa Mataaho Public Services Commission website. Local government agencies are part of the public sector. For convenience, the Rules refer to all central and local government agencies as 'agencies'.

[New Zealand's central government organisations - Te Kawa Mataaho Public Service Commission](#)

A. AGENCIES REQUIRED TO APPLY THE RULES

- All Public Service departments
- New Zealand Police
- New Zealand Defence Force
- Crown agents, Autonomous Crown Entities, Independent Crown Entities, Crown Entity Companies – other companies, Public Finance Act 1989 Schedule 4A companies
- Crown Research Institutes must have regard to the Rules.

B. AGENCIES EXPECTED TO OR ENCOURAGED TO APPLY THE RULES

- School Boards of Trustees, Public Finance Act Schedule 4 organisations, and the Reserve Bank of New Zealand are expected to have regard to the Rules as good practice guidance.
- Wider state sector and public sector agencies are encouraged to have regard to the Rules as good practice guidance.

FURTHER INFORMATION

Whole of Government Direction

The Whole of Government Direction on Procurement Functional Leadership, dated 22 April 2014, was made under section 107 of the Crown Entities Act 2004 by the Ministers of Finance and State Services. More information about this, and related directions about ICT and property services, is available on the Te Kawa Mataaho Public Services Commission website.

[Te Kawa Mataaho Public Services Commission](#)

C. TYPES OF CONTRACTS

The Rules apply to all contract types, including:

- when purchasing outright
- purchasing through hire-purchase
- when renting or leasing
- where there is an option to buy
- Public Private Partnerships
- contracts accessed through a third-party commercial supplier or broker
- *social sector commissioning and social investment outcome contracts.*

D. NON-PROCUREMENT ACTIVITIES

For the purposes of the Rules, the following activities are deemed not to be procurement activities:

- employing staff (excluding the engagement of contractors and consultants)
- disposals and sales by tender
- investments, loans and guarantees
- *gifts, donations and any form of unconditional grants*
- statutory appointments
- *Ministerial appointments*
- *Core Crown legal matters*
- public prosecutions as defined in section 5 of the Criminal Procedure Act 2011.
- goods, services or *refurbishment works* that are purchased for commercial resale;
- disposals at the end of the useful life of an asset.

E. VALUE THRESHOLDS

The Rules apply to the procurement of goods, services and *refurbishment works* where the whole of life cost meets or exceeds \$100,000.

The Rules apply to the procurement of construction works where the whole of life cost meets or exceeds \$9 million.

Roles and responsibilities within the Government Procurement System

ROLE	RESPONSIBILITIES
Minister for Economic Growth	<p>The Minister for Economic Growth is responsible for government procurement policy settings. They, and Cabinet, have responsibility for setting the strategic objectives for the government procurement framework.</p>
Procurement System Leader	<p>System leads are appointed under the Public Service Act 2020 by the Public Service Commissioner to lead and coordinate best practice in a particular subject matter across the whole or part of the State services. The Procurement System Leader is the Chief Executive of the Ministry of Business, Innovation and Employment.</p> <p>The Procurement System Leader is responsible for lifting procurement performance and improving consistency of practice.</p> <p>The mandate of the Procurement System Leader is set out below.</p> <ul style="list-style-type: none">• System outcomes: propose, for the approval of Cabinet, overall outcomes for the procurement system.• System settings and strategy: set and direct agencies to use system-wide frameworks and arrangements (e.g. collaborative contracts, systems and practices).• Workforce: lift capability and capacity and re-articulate the way the government procurement profession works (e.g. setting core competencies and practice expectations).• System performance: establish outcome measures and require agencies to provide the data needed to monitor system performance – publishing it when it is in the public interest to do so.• Agency performance: identify areas of agency under-performance (if any) and require the relevant agency to confirm remedial actions.• Risk management: monitor for system, sector and agency risks and critical issues, and if significant or increasing risks are identified, advise what actions are required to mitigate them.• Collaboration: facilitate and coordinate cross-agency collaboration across the government procurement system.• Cross-cutting: inform and advise the relevant Minister about procurement system performance and any areas of systemic under-performance.

New Zealand Government Procurement	<p>New Zealand Government Procurement (NZGP), a branch within MBIE, is responsible for implementing the government's procurement priorities.</p> <p>NZGP's functions include:</p> <ul style="list-style-type: none"> • providing advice to Government, on government procurement policy and practice • building procurement capability through training and development opportunities, and other tools, systems and resources • providing support, advice and expertise to agencies • establishing and managing All-of-Government contracts.
Procuring Agencies	<p>Chief Executive/Agency board</p> <p>New Zealand's Public Service chief executives have autonomy over how their departments operate, including accountability for their procurement. The Chief Executive is responsible and accountable for what and how the agency purchases what it needs to operate. They must do this within the government's procurement framework, including principles for expenditure of public money.</p>
	<p>Senior Responsible Officer</p> <p>The senior responsible officer is responsible for all decisions made in the course of a procurement. The SRO is responsible for ensuring that the organisation is aware of risks and issues arising from procurement that will impact the organisation.</p>
	<p>Business owner/client</p> <p>This is likely to be the business unit within the organisation that is seeking to procure goods, services or works. The client is responsible for explaining its needs/requirements to the procurement official, understanding the process and resulting contract, ensuring the contract is delivered.</p>
	<p>Procurement Officials</p> <p>Agency staff involved in the procurement of goods or services, regardless of whether they are designated procurement professionals, are expected to:</p> <ol style="list-style-type: none"> a. understand their obligations and responsibilities at each stage of the procurement life cycle; b. be responsible for the processes they apply and the decisions they make in procurement activities c. support business units with procurement and contract management activities.

	Contract Management Officials	Contract managers hold the relationship with suppliers. They are responsible for ensuring that the contract is delivered, and the expected benefits of the contract are realised.
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What happens if the Rules are not followed?

Agencies that do not apply the Rules appropriately are subject to a range of accountability measures that are the basis of New Zealand’s public sector accountability framework. Aside from potential legal action by an aggrieved supplier, procurement practices can also be reviewed/audited by the Office of the Auditor General and Comptroller, resulting in a report tabled in Parliament or by an Ombudsman.

Procurement processes and spend are often raised during Parliamentary Select Committee hearings, especially during Estimates and Scrutiny Weeks. This is where Chief Executives are subjected to scrutiny by Members of Parliament of past and future spend. In some cases, these sessions are open to the public. Agencies’ procurement processes are also scrutinised through other parliamentary processes, such as written and oral Parliamentary questions.

Agencies’ procurement processes and spend are the subject of Official Information Act 1982 and Privacy Act 2020. The information from these responses often results in media scrutiny and attention.

Officials responsible for procurement are likely to be bound to the Public Service Commission’s Standards of Integrity and Conduct (the Code). In many cases, it will be part of the official’s employment contract. If a breach of the Rules also breaches the Code, there may be adverse employment consequences. Similarly, there may be judicial action if an official’s actions violate criminal or administrative laws.

Non-compliance with the Rules and poor procurement practices will bring criticism to the agency, its Chief Executive and even possibly, the responsible Minister/s. It will result in damage to an agency’s reputation, both nationally and internationally. Agencies with negative reputations may struggle to attract staff, reliable, value-for-money suppliers and will erode the public’s trust in government.

Supplier complaints

EXPECTATIONS ON AGENCIES

A supplier may complain to an agency if it believes the agency has not followed the Rules. It’s expected that the agency tries to resolve any complaints in good faith. It should consider and respond promptly and impartially to the complaint. Without limiting its legal rights, an agency must fully cooperate in any review or hearing of a supplier’s complaint by a competent authority.

The way the agency deals with the complaint must not prejudice the supplier's ongoing or future participation in contract opportunities or affect any right the supplier may have to a judicial review or other remedy.

RECORD KEEPING

An agency must keep good records of its procurement process and decisions. These records must be made available to any authority competent to hear or review a supplier's complaint (e.g. the Office of the Auditor-General, the Ombudsman, the Commerce Commission, or a court of law).

HOW SUPPLIERS CAN SEEK REDRESS

If a supplier has complained to an agency, but is not satisfied, it has several options available for further redress. These may include:

- an independent review or investigation
- a mediation or alternative dispute resolution
- an investigation by the Auditor-General
- an investigation by the Ombudsman
- an investigation by the State Services Commission
- an investigation by the Commerce Commission
- taking the agency to court.

Before taking further steps, it is important that the supplier has tried, in good faith, to resolve the problem with the agency. See the [Guide to supplier feedback and complaints](#) for more information.

Appendix 1

Valid reasons for opting out of the Rules (Rule 11) are:

1. **Between government agencies:** Any of the following agencies can purchase goods, services or works from each other:
 - a. Public Service departments
 - b. New Zealand Police
 - c. New Zealand Defence Force
 - d. agencies covered by the Whole of Government Direction
 - e. Crown Research Institutes.
2. **Overseas:** Goods, services or works purchased outside New Zealand for use outside New Zealand.
3. **Offices and premises overseas:** Any procurement relating to constructing, refurbishing or furnishing New Zealand government offices and premises overseas.
4. **Non-contractual arrangement:** Any non-contractual arrangement (e.g. a Memorandum of Understanding between two government departments) or any form of assistance including cooperative agreements (e.g. diplomatic assistance to another government).
5. **Land and buildings:** Purchasing or renting land or existing buildings or other immovable property. This does not include refurbishment works or new construction works which are covered by the Rules.
6. **Conditional grant:** Any form of conditional grant. However, an agency **must not** design or structure a procurement as a form of conditional grant to avoid applying the Rules.
7. **International development assistance:** Providing international development assistance through multilateral or bilateral assistance, including aid in the form of conditional grants, budget support or any form of contribution or diplomatic assistance.
8. **International funding:** Any procurement funded by an international grant, loan or other assistance or that **must** comply with an international organisation's procedure where that procedure is inconsistent with the Rules.
9. **International organisation:** Any procurement conducted under a procedure required by an international organisation or funded by an international grant, loan or other assistance that is inconsistent with the Rules.
10. **International agreements between countries:** Agreements between countries for the joint implementation of a project.
11. **Public services:** The provision of certain types of *health services, education services and welfare services*.
12. **Government's central financial control functions:** *Central banking control functions* on behalf of government such as those carried out by the Reserve Bank, and Crown debt management functions such as those carried out by Treasury.
13. **Military and essential security interests:** Measures necessary for the protection of essential security interests, procurement indispensable for national security or for national defence, the maintenance or restoration of international peace or security, or to protect human health, including:

- a. procurement of arms, ammunition or war materials
- b. stationing military or implementing a joint military project under an international agreement (e.g. a peace-keeping deployment)
- c. a measure to protect: public morals, order or safety; human, animal or plant life or health; intellectual property; or relating to goods, services or works of persons with disabilities, philanthropic or not-for-profit institutions, and prison labour.

Appendix 2

Valid exemptions from open advertising (Rule 12) are:

1. **Emergency:** A genuine emergency as defined by [MBIE's Quick Guide to Emergency Procurement](#). Urgent situations that are created by an agency, such as lack of advance planning, do not constitute an emergency.
2. **Following an open competitive process:** An agency may use a closed competitive process or *direct source* process to procure goods, services and works if:
 - a. it has openly advertised the contract opportunity in the last 12 months, and
 - b. it has not substantially changed the core procurement requirements, and
 - c. the first time the opportunity was advertised it:
 - i. did not receive any responses, or
 - ii. did not receive any responses that complied with the pre-conditions (Rule 15) or conformed with or met the requirements (including quantity), or
 - iii. received responses from suppliers who it has reasonable grounds to believe have colluded, and this can be verified, and no other responses complied with the pre-conditions (Rule 15) or conformed with or met the requirements.
3. **Only one supplier:** If the goods, services or works can be supplied by only one supplier and there is no reasonable alternative or substitute because:
 - a. for technical reasons there is no real competition, or
 - b. the procurement relates to the acquisition of intellectual property or rights to intellectual property (including patents or copyrights), or other exclusive rights, or
 - c. the procurement is for a work of art, or
4. **Judicial court order:** where a New Zealand judicial court order specifies a supplier or suppliers that **must** be used to deliver services ordered by the court.
5. **Additional goods, services or works:** Goods, services or works additional to the original requirements that are necessary for complete delivery. This rule applies where all three of the following conditions are met:
 - a. the original contract was openly advertised, and
 - b. a change of supplier cannot be made for economic or technical reasons, and
 - c. a change of supplier would cause significant inconvenience or substantial duplication of costs for the agency.
6. **Prototype:** Purchasing a prototype for research, experiment, study or original development. Original development may include a limited production or supply if this is necessary to:
 - a. carry out field tests and incorporate the findings, or
 - b. prove that the good or service or works can be produced or supplied in large numbers to an agreed quality standard. This exemption does not apply to quantity production or supply to establish commercial viability or to recover research and development costs. Once the contract for the prototype has been fulfilled, an agency **must** openly advertise any subsequent procurement of the same goods, services or works.
7. **Commodity market:** Goods purchased on a commodity market.

8. **Exceptionally advantageous conditions:** For purchases made in *exceptionally advantageous conditions* that only arise in the very short term. This exemption does not cover routine purchases from regular suppliers.
9. **Design contest:** Where a contract is awarded to the winner of a design contest. To meet this exemption:
 - a. the design contest **must** have been organised in a manner that is consistent with the Rules, and
 - b. the contest **must** be judged by a panel whose members understand that the winner will be awarded a contract, and
 - c. members of the panel do not have any conflict of interest in carrying out the judging of the contest.
10. **Unsolicited unique proposal:** Where an agency receives [an unsolicited unique proposal](#) and all of the following apply:
 - a. the proposal is unique
 - b. the proposal aligns with government objectives
 - c. the goods, services or works are not otherwise readily available in the marketplace
 - d. the proposal represents public value.

Glossary

WORD OR PHRASE	REFERENCE	EXPLANATION
agency	all Rules	A generic term used in the Rules to refer to New Zealand government entities across the Public Sector.
All-of-Government Contracts (AoG)	Rule 38	<p>A type of collaborative contract that has been approved by the Procurement System Leader (the Chief Executive of MBIE).</p> <p>AoGs are usually Panel Contracts established by MBIE or other agencies that are approved Centres of Expertise for common goods or services (e.g. vehicles, laptops, and recruitment services).</p>
Application to Qualify (ATQ)	Rule 24	An application by a supplier to be included in an agency's Pre-qualified Suppliers List. A supplier must prove it has the capability and capacity to deliver specific types of goods, services or works to be included in the list.
approach to market	Part two	The formal process of giving notice of a contract opportunity to potential suppliers and inviting them to respond. An example of an approach to the market is a Request for Tender published on GETS.
Approved Government Model Template (A-GMT)	Rule 47	A-GMTs are simple, plain English templates that make it easier for both you and your suppliers to do business. They are developed to improve the consistency of procurement practices across government.
bid-rigging	Rules 29, 30	A type of price-fixing, or collusive tendering, where there is an agreement between competitors about which of them should win a bid.
business activities	Rule 15	Any activity that is performed with the goal of running a business. For the private sector, these are activities associated with making a profit (e.g. operations, marketing, production or administration).
business case	Rules 7, 12, 41, 42	A management tool that supports decision-making for an investment. It sets out the reasons for a specific project, considers alternative solutions and identifies assumptions, constraints, benefits, costs, and risks.
business day	Rules 17, 32, 33, and 36	Any weekday in New Zealand, excluding Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year's Day.

WORD OR PHRASE	REFERENCE	EXPLANATION
clear business day	Rule 17	One full business day from 9am to 5pm.
closed competitive process	Rule 12, Appendix 2	A process where an agency asks a limited number of known suppliers to respond to a contract opportunity. The contract opportunity is not openly advertised.
Closed Syndicated Contract	Rule 40	A contract established by a group of named agencies. It is not open for other agencies to join after it has been established.
collusion	Rules 17, 25, 29	A secret agreement or cooperation between two or more parties to cheat or deceive others by illegal, fraudulent or deceitful means.
commercial resale	General information	Where goods are procured for the purpose of on selling, for example items that a museum purchases for resale in its gift shop. Where the goods are to be used partially by the agency and partially for resale, it is necessary to consider the predominant use to determine whether Rule 15 applies. For example, if coffee was purchased for a café and also for internal staff use, it would be necessary to assess the predominant use (possibly by volume of usage).
commercially sensitive information	Rules 5, 20, 33	Information that, if disclosed, could prejudice a supplier's commercial interests (e.g. trade secret, profit margin or new ideas).
commodity market	Appendix 2	A legally regulated exchange (market) where raw goods or primary products, such as agricultural produce, metals and electricity, are bought and sold using standardised contracts (e.g. the London Metal Exchange and the Chicago Board of Trade).
Common Capability Contracts (CCs)	Rules 6, 39	A type of collaborative contract that has been approved by the Procurement System Leader. CCs establish various supply agreements (e.g. for ICT goods or services purchased across government with approved suppliers). CCs differ from All-of-Government and Syndicated Contracts because, in a CC: <ul style="list-style-type: none"> in some instances, a private sector supplier may be authorised to purchase from a CC when it is acting on behalf of an agency (authorised agent) in some CCs, the lead agency may charge a participating agency an admin fee or levy.

WORD OR PHRASE	REFERENCE	EXPLANATION
competition	Rules 5, 10, 12, Appendix 2	Rivalry between suppliers for sales, profits and market share. Competitive tension in the market and can produce innovation, better-quality goods or services, better value and better pricing.
Competitive Dialogue	Rule 10	A type of open procurement process often used where there is no known solution in the marketplace. It involves a structured dialogue phase with each shortlisted supplier, who invents a possible solution to meet the agency's needs. Shortlisted suppliers are often paid for their participation in the dialogue phase. All shortlisted suppliers are invited to respond to a Request for Proposal or Request for Tender. For more information see the Guide to competitive dialogue at: www.procurement.govt.nz
Conditional grants	Appendix 1	For information about conditional grants, read the Auditor-General's guide Public sector purchases, grants, and gifts: Managing funding arrangements with external parties, on the Office of the Auditor-General website. (external link)
conflict of interest	Rules 2, Appendix 2	A conflict of interest is where someone's personal interests or obligations conflict, or have the potential to conflict, with the responsibilities of their job or position or with their commercial interests. It means that their independence, objectivity or impartiality can be called into question. For more information see www.procurement.govt.nz
Contract Award Notice	Rules 11, 12, 23 32	A notice containing the information listed in Rule 37.
contract opportunity	Rules 2, 10, 24, 28, 29, 31, Appendix 2,	An opportunity for suppliers to bid for a contract for goods, services or works.
Core Crown legal matters	General information	Defined in Cabinet's directions for the conduct of Crown legal business 2012 (reference: Cabinet Office Circular CLO (12) 8). These are published in the Cabinet manual. Public service departments, New Zealand Police and New Zealand Defence Force (and bodies, decision-makers, officeholders and employees within those agencies) must refer all their requirements for external legal services relating to Core Crown legal matters to the Solicitor-

WORD OR PHRASE	REFERENCE	EXPLANATION
		General. These matters are usually dealt with by the Crown Law Office.
Crown Research Institutes	General information	Companies established under the Crown Research Institutes Act 1992. For a full list of Crown Research Institutes go to www.ssc.govt.nz
deadline for responses	Rules 10, 21, 22	The closing time and date for responses to a Notice of Procurement or any other call for tenders. If a tender is submitted after the closing date, it is deemed to be late and may not be accepted by the agency.
direct source	Rules 12, 23 and Appendix 2	A process where the agency asks a single supplier to respond to a contract opportunity, and the contract opportunity is not openly advertised.
discrimination	Rule 4	Making an unfair and prejudicial judgement for or against a person or product.
e-auction	Rules 18, 25, 30	An online reverse auction that takes place in real time. It gives suppliers the opportunity to bid against each other to improve their offers.
economic benefit	Rules 4, 6, 8, 17, 18, 32	The benefits to New Zealand which are generated through the procurement of goods, services or works.
education services	Appendix 1	<p>A generic term for public education services provided by government that includes:</p> <ul style="list-style-type: none"> • primary education services: preschool and primary school • secondary education services: general and higher, technical and vocational • higher education services: post-secondary, sub-degree technical and vocational, and those leading to a university degree or equivalent • adult education services: for adults not in the regular school and university system • other education services: not definable by level, excluding sport and recreation education.

WORD OR PHRASE	REFERENCE	EXPLANATION
evaluation criteria	Rules 6, 15, 18, 22, 24	The criteria that are used to evaluate responses. These include measures to assess the extent to which competing responses meet requirements and expectations (e.g. criteria to shortlist suppliers following a Registration of Interest or criteria to rank responses in awarding the contract).
exceptionally advantageous conditions	Appendix 2	A one-time event such as a sale by public auction or a sale resulting from liquidation, bankruptcy or receivership.
exemption from open advertising	Context, Rule 10, 12, 32	The recognised circumstances (e.g. a procurement in response to an emergency) where an agency does not need to openly advertise the contract opportunity.
framework agreement	Rule 23	Usually used in relation to Panel Contracts. It is the umbrella agreement that governs the relationship between the agency and the supplier(s). It sets out the terms and conditions (including pricing) that the parties agree to contract on in the event that the supplier is allocated a contract for supplying the covered goods, services or works. When the agency wants to buy something under the framework agreement, the parties then enter into a separate contract that refers to the terms and conditions contained in the framework agreement.
Functional Leader	General information	A government Chief Executive appointed by Cabinet to drive performance across the State Services in a particular area, e.g. procurement, ICT and property.
future procurement opportunities	Rule 37	An agency's list of planned contract opportunities that meet or exceed the value threshold. It is a rolling list covering at least the next 12 months.
GETS	Throughout	An acronym for Government Electronic Tenders Service. GETS is a website managed by New Zealand Government Procurement. It is a free service that advertises New Zealand Government contract opportunities and is open to both domestic and international suppliers. All tender information and documents are made freely available through GETS.

WORD OR PHRASE	REFERENCE	EXPLANATION
GETS listing	Rule 10	The summary of a contract opportunity that is published on GETS. It includes key information such as the: <ul style="list-style-type: none"> • name of the buying agency • approach to market process that will be used (e.g. Request for Proposals) • deadline for responses • address for any enquiries.
gifts, donations and unconditional grants	General information	For information about these, read the Auditor-General's guide Public sector purchases, grants, and gifts: Managing funding arrangements with external parties, on the Office of the Auditor-General website (external link) .
goods	Throughout	Items which are capable of being owned. This includes physical goods and personal property as well as intangible property such as Intellectual Property (e.g. a software product). It includes the goods related to achieving outcomes in an outcomes-based contract.
government procurement charter	Rules 1, 14	The Charter sets out Government's expectations of how agencies should conduct their procurement activity to achieve public value.
government's central financial control functions	Appendix 1	This relates only to the acquisition of fiscal agency or depository management services, liquidation and management services for regulated financial institutions, and sale and distribution services for government debt. These are central banking control functions on behalf of government such as those carried out by the Reserve Bank, and Crown debt management functions such as those carried out by Treasury. Ordinary commercial banking and financial services are not covered by this definition and are not valid opt-out procurements.
grant	Appendix 1	Financial assistance in the form of money paid by the Government to an eligible organisation with no expectation that the funds will be paid back. It can be either: <ul style="list-style-type: none"> • a conditional grant, where the recipient undertakes specific obligations in return for the money, or • an unconditional grant, where the recipient has no specific obligations to perform in return for the money.

WORD OR PHRASE	REFERENCE	EXPLANATION
GST	Rule 7	Goods and Services Tax (GST) is a tax on most goods and services produced in New Zealand, most imported goods, and certain imported services. GST is added to the price of taxable goods and services.
guidance	Throughout	A generic name for a range of New Zealand Government good procurement practice guides, tools and templates. These can be found at: www.procurement.govt.nz
health services	Appendix 1	<p>A generic term for health services provided by government for the public good, including:</p> <ul style="list-style-type: none"> • hospital services (in-outpatient and outpatient) including: surgical, medical, gynaecological and obstetrical, rehabilitation, psychiatric and other hospital services delivered under the direction of medical doctors chiefly to outpatients, aimed at curing, restoring, and/or maintaining the health of such patients. • general and specialised medical services • military hospital services and prison hospitals services • residential health facilities services other than hospital services • ambulance services • services such as supervision during pregnancy and childbirth and the supervision of the mother after birth • services in the field of nursing (without admission) care, advice and prevention for patients at home, the provision of maternity care, children's hygiene, etc. • physiotherapy and para-medical services, i.e. services in the field of physiotherapy, ergotherapy, occupational therapy, speech therapy, homeopathy, acupuncture, nutrition instructions, etc.
invitation to qualify (ITQ)	Rule 24	An invitation to suppliers, published on GETS, to apply to be included in an agency's Pre-qualified Suppliers List.
lean agile procurement (LAP)	Context, Rules 10, 18	<p>A competitive sourcing approach focussed on collaboration, agility, and outcomes that enables a buyer to tangibly evaluate respondents in a 'live' environment. Its singular benefit is removing barriers between the buyer and respondents, enabling effective communication and collaboration.</p> <p>LAP is focussed on a 'Big Room Event', which is a 2–3-day structured event where a shortlist of respondents is</p>

WORD OR PHRASE	REFERENCE	EXPLANATION
		brought together with the buyer in a shared space to create technical and commercial proposals, refine these throughout the event, and have them evaluated 'live'. The outcome of the 'Big Room Event' is a preferred supplier, proposal (including commercial model), and path to implementation.
market engagement	Context and Rule 2	<p>Market engagement is a process that allows you, at all stages of procurement, to:</p> <ul style="list-style-type: none"> • communicate your needs or requirements to suppliers • openly and transparently discuss possible solutions • stimulate innovation in the design and delivery of the solution • understand market capacity, capability and trends.
maximum total estimated value	Rules 7, 10, 11, 12	A genuine estimate of the total cost that an agency will pay over the whole of life of the contract. It covers the full contract cost of goods or services, and any other expenses such as maintenance and repairs, and the cost of disposing of the goods at the end of the contract.
minimum time periods	Rule 17	The least amount of time, set by the Rules, that an agency must allow suppliers to respond to a particular contract opportunity.
multi-step process	Rules 10, 18, 21, 24	A procurement process with more than one step (e.g. a Registration of Interest followed by a Request for Proposals).
infrastructure	Rules 27, 36, 41, 44	'Infrastructure' means fixed, long-lived structures that facilitate economic performance and well-being. Infrastructure includes buildings and physical networks, principally: transport, water, social assets and digital infrastructure such as mobile and broadband infrastructure, however funded.
international standards	Context and Rule 16	International standards are published by recognised international standards organisations. New Zealand standards are often aligned with international standards. When they are, suppliers may understand your needs more clearly if you refer to the New Zealand standard rather than the equivalent international one.

WORD OR PHRASE	REFERENCE	EXPLANATION
market-led proposals / unsolicited unique proposals	Appendix 2	An approach to Government initiated by a proponent with a proposal to deal directly over a commercial proposition, project, or developed concept where Government has not requested the proposal. Read more in Treasury's Guidance - Market-led proposals: Guidelines for submission and assessment at: [insert link to NIFF market-led proposals page]
ministerial appointments	General information	Non-statutory government board and advisory body appointments made by Ministers or Cabinet. A situation where a Minister instructs an agency to appoint a named consultant to undertake a piece of work is not a Ministerial appointment.
new construction works	Context, Rules 7, 9, and Appendix 1	<p>In the context of the Rules, the term relates to goods and services associated with developing new civil or building construction works.</p> <p>This includes buildings, roads, rails, bridges and dams. It covers new builds and replacement of an existing construction. This also includes related services such as design, architecture, engineering, quantity surveying, and management consultancy services. It includes various stages in the project such as:</p> <ul style="list-style-type: none"> • demolition of previous structure • pre-erection works at construction sites, including site investigation work • construction work for buildings, residential and non-residential • construction work for civil engineering • assembly and erection of prefabricated constructions, i.e. installation on site of complete prefabricated buildings or other constructions, or the assembly and erection on site of prefabricated sections of buildings or other constructions • special trade construction work such as foundation work, including pile driving, water well drilling, roofing and water proofing, concrete work, steel bending and erection, erection work from purchased or self-manufactured structural steel components for buildings or other structures such as bridges, overhead cranes or electricity transmission towers, steel reinforcing work and welding work • masonry work

WORD OR PHRASE	REFERENCE	EXPLANATION
		<ul style="list-style-type: none"> • installation work such as heating, ventilation and air-conditioning work, water plumbing and drain-laying work, gas-fitting construction work, electrical work, insulation work (e.g. electrical wiring, water, heat, sound), fencing and railing construction work, other installation work (e.g. installation of lifts and escalators and moving sidewalk), fire escape equipment and construction work (e.g. staircases) • building completion and finishing such as glazing work and window-glass installation work, plastering work, painting work, floor and wall-tiling work, floor-laying, wall-covering and wall papering work, wood and metal joinery and carpentry work, interior fitting decoration work, ornamentation fitting work, other building completion and finishing work (e.g. special trade building acoustical work involving the application of acoustical panels, tiles and other material to interior walls and ceilings), and • steam or sand cleaning work of building exteriors • renting services related to equipment for construction or demolition of buildings or civil engineering works.
New Zealand business	Throughout	A business that originated in New Zealand (not being a New Zealand subsidiary of an offshore business), is majority owned or controlled by New Zealanders, and has its principal place of business in New Zealand. For purposes of Rule 17.1, the reference to New Zealand business includes Australian business.
New Zealand technical regulations	Rule 16	Mandatory for goods and services for use in, and construction works located in, New Zealand. If there is a New Zealand technical regulation applying to the goods, services or works you are sourcing, your specifications must be based on it. Examples are the Electricity (Safety) Regulations 2010 and the Building Code in Schedule 1 of the Building Regulations 1992.
notice of procurement	Rule 18 and throughout	The document published on GETS that advertises a new contract opportunity (e.g. a Registration of Interest or a Request for Tender).
official Information Act 1982	Rule 5 and general information	A New Zealand law that sets out the information that government must make freely available to the New Zealand public.

WORD OR PHRASE	REFERENCE	EXPLANATION
offset	Rule 4	Within the context of the Rules, an offset is a condition or undertaking intended to develop the local economy or improve the balance-of-payments accounts that a supplier must fulfil in order to be awarded the contract.
open advertising	Rules 12, 32 and Appendix 2	Publishing a contract opportunity on GETS and inviting all interested domestic and international suppliers to participate in the procurement.
open competitive process	Rules 7, 10, Appendix 1 and 2	An open competitive process means procurement opportunities are openly advertised on the Government Electronic Tenders Service and any supplier or provider is enabled to submit a response. This could involve traditional tenders, or alternatively an outcome-based contract, an invitation to participate in a lean agile procurement or competitive dialogue event, for example.
open syndicated contract	Rules 6, 40, 44	A type of collaborative contract that includes a common use provision allowing other, unspecified agencies to contract with the supplier on the same terms at a later stage.
opt-out procurements	Context, Rules 11, 38, 39	Specific types of procurement activities where agencies can choose to opt-out of applying most of the Rules.
panel guide	Rules 17, 23	A document that sets out how the panel contract will be operationalised.
panel contract	Rules 23, 32	A type of framework agreement that governs the relationship between the agency and each Panel Supplier. It sets out the terms and conditions that the parties agree to contract on in the event that the Panel Supplier is allocated a contract to provide specific goods, services or works.
panel of suppliers	Rules 12, 18, 23	A list of suppliers an agency has pre-approved to supply particular goods or services and who have agreed to the agency's terms and conditions for supply.
panel supplier	Rule 23	A supplier included in a Panel of Suppliers.
pre-conditions	Rules 15, 18, 28, 33	A condition that a supplier must meet to be considered for a particular contract opportunity.
pre-qualified supplier	Rule 24	A supplier included in a Pre-qualified Suppliers List.

WORD OR PHRASE	REFERENCE	EXPLANATION
pre-qualified Suppliers list	Rule 24	A list of suppliers an agency has pre-approved as having the capability and capacity to deliver specific goods or services. It is the New Zealand Government equivalent of the World Trade Organization Agreement on Government Procurement's 'multi-use list'.
Principles	Rule 1 and throughout	Short for the Principles of Government Procurement. The five Principles are: <ul style="list-style-type: none"> • plan and manage for great results • be fair to all suppliers • get the right supplier • get the best deal for everyone play by the Rules.
procurement	Throughout	All aspects of acquiring and delivering goods, services and works. It starts with identifying the need and finishes with either the end of a service contract or the end of the useful life and disposal of an asset.
Procurement Functional Leader	General information	The Chief Executive of the Ministry of Business, Innovation and Employment, who has been appointed by the Commissioner for State Services as the Functional Leader for procurement activities across government.
Procurement System Leader	Throughout	The Chief Executive of the Ministry of Business, Innovation and Employment, who has been appointed by the Public Service Commissioner under section 56 of the Public Service Act 2020 as Procurement System Leader.
procurement plan	Rules 6, 7, 9, 12	A plan to analyse the need for specific goods, services or works and the outcome the agency wants to achieve. It identifies an appropriate strategy to approach the market, based on market research and analysis, and summarises the proposed procurement process. It usually includes the indicative costs (budget), specification of requirements, indicative timeline, evaluation criteria and weightings and the economic benefits to New Zealand.
provider	General term	Synonymous with supplier, frequently used in the social services sector.
prototype	Appendix 2	An early sample, model or pilot study used to test a concept or process.

WORD OR PHRASE	REFERENCE	EXPLANATION
public sector	General information	<p>This includes agencies in:</p> <ul style="list-style-type: none"> • the Public Service (departments and ministries) • the wider State Services (e.g. Crown Entities, Crown Research Institutes, entities listed in Schedules 4 and 4A of the Public Finance Act 1989, and School Boards of Trustees) and • the wider State Sector (e.g. Offices of Parliament, Tertiary Education Institutes and State Owned Enterprises) and • Regional Councils and Territorial Authorities (as defined in s5 of the Local Government Act 2002). <p>A list of these agencies is available at: www.ssc.govt.nz</p>
public service	Throughout	<p>The New Zealand government public service departments and ministries listed in Schedule 1 of the State Sector Act 1988. A list of these agencies is available at: www.ssc.govt.nz</p>
public private partnerships (PPPs)	Rule 41 and General Information	<p>A long-term contract for the delivery of a service, involving building a new asset or infrastructure (e.g. a prison) or enhancing an existing asset. The project is privately financed on a non-recourse basis and full legal ownership is retained by the Crown.</p>
public value	Throughout	<p>Public value means the best available result for New Zealand for the money spent. It includes using resources effectively, economically, and responsibly, and taking into account:</p> <ul style="list-style-type: none"> • the procurement's contribution to the results you are trying to achieve, including economic benefits • the total costs and benefits of a procurement (total cost of ownership). <p>The principle of public value when procuring goods, services or works does not mean selecting the lowest price but rather the best possible outcome for the total cost of ownership (over the whole of life of the goods, services or works).</p> <p>Selecting the most appropriate procurement process that is proportionate to the value, risk and complexity of the procurement will help achieve public value.</p>

WORD OR PHRASE	REFERENCE	EXPLANATION
refurbishment works	Rules 7, 8, 10, 24 General information	In the context of the Rules, the term relates to goods, services, or works associated with delivery of refurbishment works in relation to an existing construction. Construction means buildings, roads, bridges and dams. Refurbishment works cover renovating, repairing or extending an existing construction. Refurbishment works does not include replacing a construction. That is deemed to be new construction works.
registration of interest (ROI)	Rules 10, 21 and 24	Also known as an Expression of Interest. A formal request from an agency asking potential suppliers to: <ul style="list-style-type: none"> register their interest in an opportunity to supply specific goods, services or works provide information that supports their capability and capacity to deliver the goods, services or works. It's usually the first formal stage of a multistep tender process.
relational contract	Rule 10	A contract that seeks delivery of an outcome/s, used most often in the social sector and may also be referred to as outcomes-based contract.
request for information (RFI)	Rule 18	A market research tool. A formal request from an agency to the market, for information that helps identify the number and type of suppliers and the range of solutions, technologies and products or services they can provide. It is not a type of Notice of Procurement. It must not be used to select or shortlist suppliers.
request for proposal (RFP)	Rules 10, 18 and 24	A formal request from an agency asking suppliers to propose how their goods or services or works can achieve a specific outcome, and their prices. An agency may be open to innovative ways of achieving the outcome.
request for quote (RFQ)	Rules 10 and 23	A formal request from an agency asking potential suppliers to quote prices for 'stock standard' or 'off the shelf' goods or services or works, where price is the most important factor.
request for tender (RFT)	Rules 10 and 18	A formal request from an agency asking for offers from potential suppliers to supply clearly defined goods or services or works. Often there are highly technical requirements and a prescriptive solution.

WORD OR PHRASE	REFERENCE	EXPLANATION
response	Throughout	A supplier's reply to a Notice of Procurement. Examples include: <ul style="list-style-type: none"> registering of interest in an opportunity submitting a proposal submitting a tender applying to qualify as a pre-qualified supplier.
Rules	Throughout	A short name for the Government Procurement Rules.
secondary procurement	Rules 12, 17, 23 and 37	Where an agency purchases goods, services or works from a Panel of Suppliers, an All-of-Government Contract, Common Capabilities Contract or Syndicated Contract.
services	Throughout	Acts or work performed for another party, e.g. accounting, legal services, cleaning, consultancy, training, medical treatment, or transportation. It includes the services related to achieving outcomes in an outcomes-based contract. Sometimes services are difficult to identify because they are closely associated with a good (e.g. where medicine is administered as a result of a diagnosis). No transfer of possession or ownership takes place when services are sold, and they: <ul style="list-style-type: none"> cannot be stored or transported are instantly perishable only exist at the time they are provided.
social sector commissioning	Rules 10, 18, General information	Where goods or services are designed in partnership with communities, those who benefit from, or those who deliver the good or service.
social investment outcomes contract	Rule 18	A way of procuring services that links payment to the achievement of specified outcomes. This differs from most government contracting for social services, which ties funding to the delivery of specific services.
sourcing	Rules 6, 16, 18 46	The parts of the procurement lifecycle that relate to planning, market research, approaching the market, evaluating responses, negotiating and contracting.
state sector	General information	This includes <ul style="list-style-type: none"> the Public Service (departments and ministries) the wider State Services (e.g. Crown Entities, Crown Research Institutes, entities listed in Schedules 4 and 4A of the Public Finance Act 1989, and School Boards of Trustees)

WORD OR PHRASE	REFERENCE	EXPLANATION
		<ul style="list-style-type: none"> • offices of Parliament, Parliamentary Service and the Office of the Clerk of the House of representatives • Tertiary Education Institutes • State-owned enterprises <p>A list of these agencies is available at: www.ssc.govt.nz</p>
state services	Rule 19 and General information	<p>This includes:</p> <ul style="list-style-type: none"> • the Public Service (departments and ministries) • Non-Public Service departments (including New Zealand Defence Force and New Zealand Police) • Crown agents, autonomous Crown entities, independent Crown entities, Crown entity companies, and Crown entity subsidiaries • Crown Research Institutes • entities listed in Schedules 4 and 4A of the Public Finance Act • Reserve Bank of New Zealand • School Boards of Trustees. <p>A list of these agencies is available at: www.ssc.govt.nz</p>
statutory appointments	General information	Statutory appointments are made under statutory authority and include appointments made by warrant from the Governor-General under the Letters Patent, e.g. Crown Solicitors.
sufficient time	Rule 17	<p>The time a government agency must give suppliers or providers to respond to a Notice of Procurement, to support:</p> <ul style="list-style-type: none"> • quality responses • the integrity of the process • the agency's reputation as a credible buyer.
supplier	Throughout	A person, business, company or organisation that supplies or can supply goods, services or works or deliver an outcome to an agency.
supplier code of conduct	Context, Rules 2, 14, 29	The Code of Conduct provides a minimum set of expectations that government expects of all its suppliers. Agencies may have their own codes of conduct for suppliers, and these can exist simultaneously.

WORD OR PHRASE	REFERENCE	EXPLANATION
supplier debrief	Rule 33	<p>Information an agency provides to a supplier who has been unsuccessful in a particular contract opportunity, that explains:</p> <ul style="list-style-type: none"> the strengths and weaknesses of the supplier's proposal against the tender evaluation criteria and any pre-conditions the reasons the successful proposal won the contract anything else the supplier has questioned.
syndicated contract	Rules 6, 12, 40	<p>A type of collaborative contract that typically involves a group of agencies aggregating their needs and collectively going to market for common goods, services or works.</p> <p>If the contract includes a common use provision (CUP), to allow other agencies to contract with the supplier on the same terms later, it is an Open Syndicated Contract and needs to be approved by the Procurement System Lead.</p> <p>If the contract is limited to a group of named agencies, it is a Closed Syndicated Contract.</p>
technical specification	Rules 16, 18, 22	<p>A requirement that either:</p> <ul style="list-style-type: none"> lays down the characteristics of goods, services or works to be procured, including quality, performance, safety and dimensions, or the processes and methods for their production or provision, or addresses terminology, symbols, packaging, marking or labelling requirements, as they apply to a goods, service or works.
tender watch code/s	Rules 10, 24	<p>Codes used on GETS to classify goods, services and works. They are based on the United Nations Standard Products and Services Code (UNSPSC). You can find these codes at: www.gets.govt.nz</p>
Te Tiriti o Waitangi/Treaty of Waitangi Exception	Context, Rule 7	<p>New Zealand is party to International Agreements that include specific provisions preserving the pre-eminence of Te Tiriti o Waitangi. Te Tiriti o Waitangi exception provides flexibility for the Government to implement domestic policies in relation to Māori, including in fulfilment of the Crown's obligations under the Treaty. Pursuant to this provision New Zealand may adopt measures it deems necessary to accord favourable treatment to Māori, provided that such measures are not used as a means of arbitrary or unjustified discrimination or as a disguised restriction on trade in goods, trade in services and investment.</p>

WORD OR PHRASE	REFERENCE	EXPLANATION
The Crown	Context	The short name for 'the Sovereign in Right of New Zealand' as the bearer of governmental rights, powers, privileges and liabilities in New Zealand.
Third-party agent	Rule 13	A party who is contracted to manage a procurement process on behalf of an agency. The agency remains responsible and accountable for ensuring that the procurement complies with the Government Procurement Rules.
total cost of ownership (TCO)	Context	An estimate of the total cost of the goods, services or works over the whole of their life. It is the combination of the purchase price and all other expenses and benefits that the agency will incur (e.g. installation and training, operating and maintenance costs, repairs, decommissioning, cost associated with disposal and residual value on disposal). It is a tool often used to assess the costs, benefits and risks associated with the investment at the business case stage of a procurement.
unsolicited unique proposal	Appendix 2	An approach initiated by a supplier proposing a unique solution that is not available in the marketplace. For more information, the Guide to unsolicited unique proposals is available at: www.procurement.govt.nz
value threshold	Rules 7, 8, 23, 24 General Information	The minimum New Zealand Dollar value at which the Rules apply to a particular procurement type. It excludes GST.
welfare services	Appendix 1	A generic term for public welfare services provided by government, which includes: <ul style="list-style-type: none"> social services, including residential and non-residential welfare services to the old, disabled, children and other social assistance clients compulsory social security services (administration of benefits).
whole of government direction	General information and Appendix 1	The Whole of Government Direction Regarding Procurement Functional Leadership given by the Minister of Finance and the Minister of State Services (now known as the Minister for the Public Service), on 22 April 2014, under section 107 of the Crown Entities Act 2004 (notified in New Zealand Gazette No. 65 on 19 June 2014). This direction requires certain types of State Services agencies to apply the Rules. A list of these agencies is available at: www.procurement.govt.nz

WORD OR PHRASE	REFERENCE	EXPLANATION
		<p>The direction is available at: Guidance: Directions to support a whole of government approach - Te Kawa Mataaho Public Service Commission</p>
works	Throughout	<p>A generic term which covers new construction works for a new build or refurbishment works to an existing construction.</p>
World Trade Organization Agreement on Government Procurement	Context	<p>Also known as the GPA. A trade agreement established by the World Trade Organization (WTO). It is a legally binding treaty between participating countries, based on the principles of openness, transparency and non-discrimination, and sets out detailed Rules for good procurement processes.</p> <p>The main aim of the GPA is to improve access to government procurement markets and remove barriers to international trade.</p>



Te Kāwanatanga o Aotearoa
New Zealand Government

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