

Discussion document: Extending the Government Procurement Rules to government entities in the New Zealand public sector

The Ministry of Business, Innovation and Employment (MBIE) is undertaking a public consultation to understand the potential benefits, opportunities, and other impacts of extending the Rules to a wider set of government entities in the New Zealand public sector. This consultation will inform our policy development process and advice to Ministers.

Each year the New Zealand public sector spends around \$42 billion on goods, services and works from third party suppliers to build infrastructure and provide public services. The size and nature of this spend means that there is an opportunity for government procurement to achieve better social and economic outcomes for New Zealanders, as well as meeting the public's expectation that taxpayer money is spent appropriately and competently by government organisations.

The New Zealand public sector encompasses a broad range of government entities that include:

- Ministries and departments, eg MBIE
- Crown entities, eg the Accident Compensation Corporation (ACC) and District Health Boards
- Crown Research Institutes, eg the National Institute of Water and Atmospheric Research Limited (NIWA)
- Public Finance Act Schedule 4A Companies, eg Ōtākaro Limited and City Rail Link Limited
- School Boards of Trustees
- Public Finance Act Schedule 4 Organisations, eg Fish and Game Councils
- Offices of Parliament, eg The Controller and Auditor-General and the Office of the Ombudsmen
- Universities
- State-Owned Enterprises, eg KiwiRail Limited
- Regional and Territorial Authorities, eg Tauranga Regional Council and Auckland Council.

Government procurement is regulated in New Zealand by the Government Procurement Rules.

The Rules provide a flexible framework that governs the way government entities procure goods, services and works in accordance with good procurement practice. They are a framework to ensure accountability for the appropriate use of public money, reflect New Zealand's government procurement commitments in international agreements and government expectations that procurement promotes transparency, anti-corruption, fairness, competition, and that money spent by the Government achieves better outcomes for New Zealanders.

A key focus of the Rules is the importance of open competition – giving all businesses the chance to participate, and giving them enough time to respond to opportunities properly. They also help to:

- align New Zealand procurement practice with international best practice
- encourage more strategic procurement approaches
- foster competition and innovation, resulting in better solutions
- promote broader environmental, social, cultural and economic outcomes.

[Read more about Government Procurement Rules](#)

The Rules align with the Government's expectations that procurement can be leveraged to achieve broader outcomes. They focus on promoting public value, and include explicit requirements for government entities to incorporate or

consider the priority outcomes as part of their procurement opportunities. These outcomes are contained in Rules 17-20 and are aimed at:

- Increasing access to government procurement opportunities for New Zealand businesses, including Māori, Pasifika, regional businesses and social enterprises.
- Improving the size and skill level of New Zealand’s construction sector workforce. In construction projects over \$9m, tenders must include evaluation criteria in respect of skills development and training practices of the supplier and any sub-contractors. Government entities must also monitor contracts to ensure that skills development and training commitments are delivered.
- Improving conditions for New Zealand workers and ensuring that firms with good labour practices are not undercut by businesses with poor labour practices; and
- Supporting the transition to a net zero emissions economy and assisting the Government to meet its goal of 'significant' reduction in waste by 2020. For certain contracts, government entities must support the procurement of low-waste and low-emissions goods and services and encourage innovation in the procurement process to significantly reduce climate and waste impacts.

[Read more about broader outcomes](#)

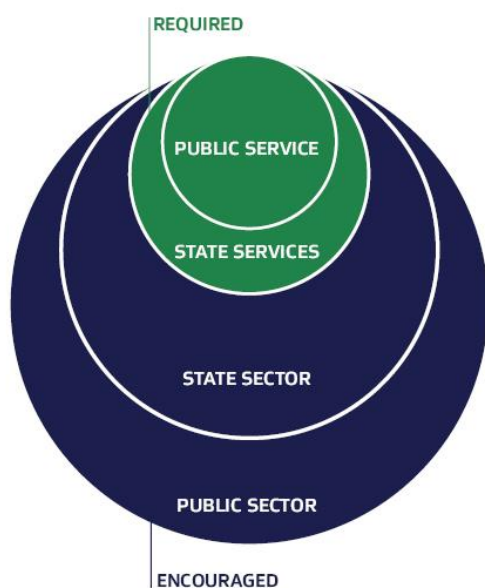
New Zealand has a devolved procurement model with individual chief executives and governing bodies who are accountable for their organisation's procurement activity and good practice performance.

Currently, it is mandatory for approximately 135 government entities to apply the Rules.

Most government entities are ‘encouraged’ to apply the Rules as good procurement practice. This includes a significant proportion of the remainder of the New Zealand public sector, including 2,400 School Board of Trustees and 78 regional and territorial authorities (with annual collective spend of approximately \$8 billion).

These government entities can choose whether to follow the good practice standards in the Rules, including those rules requiring transparent and openly competitively processes and seeking to achieve wider economic, social, cultural and environmental benefits to New Zealand from public money spent.

This diagram shows that that a significant portion of New Zealand’s public sector is not required to apply the Rules:



Public Service departments are the core departments and ministries listed in the Public Service Act 2020, Schedule 2.

State Services is the State Services agencies covered by the Whole of Government Direction. These include:

- › Crown Agents
- › Autonomous Crown Entities
- › Independent Crown Entities
- › Crown Entity companies
- › Public Finance Act Schedule 4A companies

State Sector includes:

- › School Boards of Trustees
 - › Offices of Parliament
 - › Tertiary Education Institutes
 - › State-owned Enterprises
- *seven crown research institutes are expected to apply the Rules.

Public Sector includes:

- › Regional Councils
- › Territorial Authorities

In the current policy settings, Government is limited in its ability to influence government procurement policies in the State and Public Sector, implement system-wide improvements to procurement practices and achieve greater public good from the \$42 billion that is spent each year by the government sector.

If a wider set of government entities that are currently 'encouraged' to apply the Rules were required to apply them, there would be a number of potential benefits and opportunities:

- Consistency of procurement policies and practices across government.
- Greater transparency and visibility of government procurement opportunities for businesses.
- The potential for greater uptake of social procurement practices, achieving wider economic, social and environmental outcomes and greater impact from future policies.
- A greater focus on achieving 'public value'. Public value means selecting the best possible outcome rather than the lowest cost. This would empower government entities to use procurement as lever to effect wider societal benefits, for example by reducing negative environmental impacts such as carbon emissions and promoting regional employment.
- More accountability for good procurement practices and strengthening recourse for businesses to challenge processes.

There would be some likely costs and other impacts:

- There may be a curtailment of current procurement flexibility and an increase in operational costs and process time and resource.
- There may be less scope for direct sourcing.
- Participation in Rules complaint processes may increase tendering costs for businesses.
- There may be insufficient procurement capability and resources in some government entities to implement the Rules.
- Some government entities will have specific statutory objectives and obligations that may be impacted. For example, regional and territorial authorities derive funding from local ratepayers (rather than taxpayers).
- Increased reporting requirements may put pressure on available resources.

We would like to hear your thoughts on the potential benefits, opportunities, and other impacts of extending the Government Procurement Rules to government entities in the New Zealand public sector.

Submissions close at 10am on Monday 23 November 2020.

If you have any questions please contact NZGPPpolicy@mbie.govt.nz

How to make a submission

You can make your submission:

- By completing the survey [here](#)
- By emailing feedback to NZGPPpolicy@mbie.govt.nz