

WHAT GOOD LOOKS LIKE

Applying the Government Procurement Rules

Public sector procurement in New Zealand

New Zealand currently operates a functional leadership model for procurement. Directions, priorities, and the Government Procurement Rules (the Rules) are set centrally. Individual chief executives and governing bodies are responsible for implementing these directions, priorities, and rules through their agency's own procurement policy and practices. They are open to scrutiny by the courts, the Ombudsman, the Auditor-General, parliamentary processes, market participants, and the public.

The Rules set expected standards for procurement, demand processes that are fair, and establish a clear expectation that agencies will deliver the Government's priority outcomes.

Agencies are free to determine their own operational needs, run procurement processes, and manage risk, but they remain accountable for their procurement decisions.

What are the Government Procurement Rules?

The Rules are a Cabinet-mandated policy. The current version (the fourth edition) was issued in October 2019.

A key focus for the Rules is the importance of open competition to test the market and determine best public value. This means giving all businesses the chance to participate and enough time to respond properly. The Rules also help to:

- align New Zealand procurement with international best practice;

- encourage more strategic procurement approaches;
- foster competition and innovation, resulting in better solutions; and
- promote broader environmental, social, cultural, and economic outcomes.

Who do the Government Procurement Rules apply to?

The Rules apply to ministries and departments, non-public service departments, crown entities, crown entity companies, and Public Finance Act schedule 4A companies (approximately 120 agencies). These agencies, which **must** follow the Rules, are referred to as mandated agencies. Entities in the wider public sector (approximately 2,900) are either **expected** or **encouraged** to apply the Rules.

What are procurement principles?

The Government's procurement principles articulate public sector values. Because the Rules cannot cover all possible circumstances, agencies should use the principles to help make good procurement decisions. The five principles are:

- 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.

These are similar to the Auditor-General's **six principles of procurement**. Both sets of principles are founded on the public law duty to be procedurally fair.

What is the Government Procurement Charter?

The Government Procurement Charter sets out the Government's expectations of how agencies should conduct their procurement activity to achieve public value. Public value strikes a balance between quality, outcomes, and price.

The Charter applies even when the Rules do not. Agencies need to demonstrate how they are meeting these expectations.

The Government Procurement Charter directs agencies to:

1. Seek opportunities to include New Zealand businesses.
2. Undertake initiatives to contribute to a low emissions economy and promote greater environmental responsibility.
3. Look for new and innovative solutions.
4. Engage with businesses with good employment practices.
5. Promote inclusive economic development within New Zealand.
6. Manage risk appropriately.
7. Encourage collaboration for collective impact.

The five principles of government procurement and the Government Procurement Charter apply to all agencies, regardless of whether the agencies are mandated. They also apply to all procurements, even if the Rules do not.

What does this mean for policy?

We expect all agencies to have a procurement policy that:

- refers to the:
 - procurement principles and states how the principles will guide the agency's procurement approach; and
 - Government Procurement Charter, stating how the charter will be fulfilled through the agency's procurement approach;
- is up to date and regularly reviewed;
- has been approved at an appropriate level; and
- has clear ownership and responsibility for it to be implemented and updated.

For mandated agencies, procurement policies should explicitly state that they are required to follow the Government Procurement Rules (fourth edition).

For non-mandated agencies, procurement policies should explain how their policies align to, or support, the Government Procurement Rules (fourth edition).

Where to find out more

Audit New Zealand's website includes a focus on procurement in our *What goods looks like* series.

See the Ministry of Business, Innovation and Employment's website for the Government Procurement Rules, procurement principles, and Government Procurement Charter.

The Office of the Auditor-General's website has a section on procurement good practice.