

Government Rules of Sourcing

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Foreword

As Procurement Functional Leader, I am pleased to introduce the Government Rules of Sourcing. The Rules represent the government's standards of good practice for the sourcing stages of the procurement lifecycle.

Government agencies spend billions every year buying goods and services from third-party suppliers and providers, accounting for around 18% of New Zealand's GDP. These goods and services are often critical to our country's economic and social well-being. Effective procurement helps us deliver better public services and realise value for money.

The Rules give us the foundations. By applying them we demonstrate that our government is open, transparent and accountable. The Rules help us to design processes that are robust and build confidence in government procurement practices. This will build greater public trust that our spending is well-planned and well-executed.

Government procurement can also contribute to economic growth. By seeking continual improvement and innovation, we can help those who win contracts become more competitive in international markets, increasing exports and supporting New Zealand's economic growth.

The Rules make it easier for suppliers and providers to learn about contract opportunities, and introduce consistent, principled practices across government so that they can get on with delivering effective solutions.

David Smol
Chief Executive

Editions

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.

- [Cabinet Minute for Government Rules of Sourcing \(CAB Min \(13\) 10/4A\) \[54 KB PDF\]](#)

The second edition of the Rules came into effect on 26 May 2014, to reflect Cabinet's decision to rescind Rule 67. This rule required agencies to source cleaning services only from members of the Building Services Contractors Association.

The third edition resulted from a general review in October 2014. It includes minor changes to provide greater clarity and reflects the following policy decisions:

- extending the mandatory application of the Rules to a wider range of agencies ([Rule 6](#))
- applying certain Rules to opt-out procurements ([Rule 13](#))
- extending the opt-out for procurement between departments to a wider range of agencies ([Rule 13](#))
- making it clear that when a government agency is using weighted evaluation criteria to select a supplier, it must include the weightings in its Notice of Procurement ([Rule 35](#))

The third edition has been approved by the Ministers of Finance and State Services and was endorsed by Cabinet on 30 March 2015. It has applied since 1 July 2015.

- For key changes see the [Third Edition Changes page](#).

Focus on sourcing

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. The [Guide to Mastering Procurement](#) explains the 8 stages of the procurement lifecycle.

The Rules focus mainly on the process of sourcing. Sourcing is only part of the procurement lifecycle. It covers planning your procurement, market research, approaching the market, evaluating responses, and negotiating and awarding the contract.

Purpose

The purpose of the Rules is to:

- provide a refreshed, plain English format that is easier for agencies and suppliers to use
- modernise the government's approach to procurement to align with good international practice and provide better value for the New Zealand public
- encourage agencies to use more strategic approaches and commercial expertise when procuring – including e-procurement
- encourage agencies to engage early with the market to stimulate competition and innovation, and work with suppliers to develop better solutions
- include Cabinet-directed procurement requirements and legislation.

Application to agencies

The Rules are mandatory for the agencies listed in [Rules 6.1](#) and [6.2](#). For these agencies, where the Rules use the term must, the Rule is compulsory and non-compliance is a breach of the Rules. Where the Rules use the term should, this indicates good practice. Agencies referred to in [Rule 6.3](#) must apply the Rules relevant to the commitments contained in, and the procurement covered under, the WTO Agreement on Government Procurement and other free trade agreements. For more information about trade agreements see the [Access to export markets page](#).

A range of mechanisms are used to bind agencies to applying the Rules. An example is a Whole of Government Direction under s107 of the Crown Entities Act 2004.

These agencies may be audited for compliance with the Rules. Suppliers have a right to complain if they think that such an agency has not complied with the Rules. See the [Guide to supplier feedback and complaints \[412KB PDF\]](#).

Other agencies in the wider public sector are expected or encouraged to apply the Rules as good practice (see [Rules 6.4](#) and [6.5](#)). These agencies can interpret must as should.

Using the Rules

The Rules are a flexible framework designed to help agencies to make balanced procurement decisions.

Before you choose a procurement process, make sure you understand the nature of the market for the goods, services or works you need and the best way to source your requirements, then consider how the Rules apply.

Accompanying each Rule are blue boxes with more information, definitions, links to guides, tools and templates, and examples. These do not form part of the Rules. They can be used, along with the background information in this section and [Chapter 1](#), to assist with interpretation and to give greater context for the reader. 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 marketed in italics, (eg Request for Tender and new construction works). Special meanings are explained on the [Definitions](#) page.

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](#). An interpretation of each Rule that best fits its purpose within the Rules as a whole should be adopted.

Agencies can refer to the Rules as the single source of all New Zealand's international commitments on government procurement. Readers do not need to refer directly to these treaties and agreements. [Chapter 6](#) contains a summary of New Zealand domestic requirements for government procurement. Readers are directed to additional sources and will be required to refer to them directly.

Tools and resources

To help you transition to the Rules, the following resources are available:

- [Rules overview presentation for agencies \[2.3MB PPTX\]](#)
- ["Get the tools to follow the Rules", a toolkit for Government Agencies \[1.68MB PDF\]](#)
- [Procurement Model Policy](#)
- [Government Model Contracts](#)
- [Government Model RFX templates](#)

Archived material

- [First edition of the Government Rules of Sourcing \[2MB PDF\]](#) came into force on 1 October 2013 to 25 May 2014.
- [Second edition of the Government Rules of Sourcing \[1.7 MB PDF\]](#) came into force on 26 May 2014 to 30 June 2015.

Why have rules?

- [To strengthen accountability](#)
- [To promote our values](#)
- [To encourage commercial practice](#)
- [To support economic development](#)
- [To build high-performing public services](#)
- [What is good procurement?](#)

To strengthen accountability

Government agencies must account for how they spend taxpayers' money. The Rules, along with the Principles of Government Procurement and other good practice guidance such as the Office of the Auditor-General's Procurement Guidance for Public Entities, provide a framework that promotes responsible spending when purchasing goods, services, and works. This framework supports proactively managing procurement process and delivery risks.

The Rules also establish processes that are consistent and predictable, making it easier for agencies and suppliers to engage with each other.

Agencies must also be aware of, and comply with relevant law, including the common law of contract, public law and commercial law obligations.

MANAGING RISKS - HEALTH AND SAFETY

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EXAMPLES OF LAW RELATING TO PROCUREMENT

[Open +](#)

To promote our values

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

- delivers best value for money (which isn't always the cheapest price)
- does not discriminate against suppliers (whether domestic or international), and
- meets agreed international standards.

The Rules reflect these values and standards.

[MORE INFORMATION ON VALUE FOR MONEY](#)

[Open +](#)

[EXAMPLE OF VALUE FOR MONEY](#)

[Open +](#)

To encourage commercial practice

Early market engagement and continued open dialogue with suppliers are essential to the results we can achieve. There are sound commercial reasons why building stronger relationships with business is important. The Rules aim to encourage better commercial practice by promoting these types of behaviours and achieving greater value for money.

To support economic development

As a small, remote trading economy, New Zealand needs to export to survive. A competitive economy trading successfully with the world is one way to build ongoing economic growth. This creates jobs and grows incomes. New Zealand suppliers 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. The Rules reflect New Zealand's FTA commitments and align with the World Trade Organization's Agreement on Government Procurement (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 – that demonstrates professional practice and has a reputation for integrity.

[MORE INFORMATION ON NZ'S INTERNATIONAL COMMITMENTS](#)

[Open +](#)

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.

What is good procurement?

Public value

Agencies that maximise their return on spending will achieve the best possible results for New Zealanders. Good procurement means better public value.

Policy framework

Government procurement is based on Principles, Rules and 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 skillfully 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. It's about applying sound commercial judgement to achieve the best value for money, which isn't always the cheapest price, 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 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 embraces continuing to develop the supplier and driving value for money through ongoing efficiency gains.

Principles

The [Principles of Government Procurement](#) apply to all government agencies and provide our overarching values. The Principles apply even if the Rules do not. Agencies can use the Principles for guidance and to help make good procurement decisions.

Other guidance

Examples of guidance on government procurement practice include:

- [Office of the Auditor-General's Procurement guidance for public entities.](#)
- [Mastering procurement guide \[1 MB PDF\].](#)

Principles of Government Procurement

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 (for example, tenders sent by email).

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).
- Give NZ suppliers a full and fair opportunity to compete.
- Make it easy for all suppliers (small to large) to do business with us.
- Be open to subcontracting opportunities in big projects.
- Clearly explain how you will assess suppliers' proposals – so they 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.
- 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 value for money – account for all costs and benefits over the lifetime of the goods or services.
- Make balanced decisions – consider the social, environmental and economic effects of the deal.
- 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.

- [Download the Five Principles of Government Procurement \[201KB PDF\]](#)

1 - Getting Started

What values underpin the Rules?

[Rule 1 - Principles](#)

[Rule 2 - Integrity](#)

[Rule 3 - No offsets](#)

[Rule 4 - Non-discrimination](#)

[Rule 5 - Protection of suppliers' information](#)

Who do the Rules apply to?

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Do I have to openly advertise?

[Rule 14 - Requirement to openly advertise](#)

[Rule 15 - Exemption from open advertising](#)

Rule 1

Principles

1. Each agency must have policies in place that incorporate the five [Principles of Government Procurement](#). The Principles apply to all procurements, even if the Rules do not apply.
2. Each agency must make sure that:
 - a. all staff engaged in procurement have been trained in the five Principles
 - b. its procurement practices reflect the five Principles
 - c. it is able to show how it has used sound research to plan an appropriate approach-to-market strategy that is proportionate to the nature, risk, value and complexity of each procurement.

[MORE INFORMATION ON PROCUREMENT PLANNING](#)

[Open ±](#)

Rule 2

Integrity

1. Each agency must have in place policies that safeguard the integrity of its procurement activities and processes. The policies must require that:
 - a. the agency and all staff involved in procurement can justify their procurement decisions
 - b. those involved in procurement decisions stay impartial
 - c. procurement processes are fair, transparent and reasonable
 - d. all staff involved in procurement act responsibly, lawfully and with integrity.
2. Each agency must have policies in place that help all staff involved in procurement to identify, notify and manage conflicts of interest. Each agency must be able to show how it uses sound judgement to manage conflicts of interest.

Rule 3

No offsets

1. An agency must not ask for, take account of, or impose any offset at any stage in a procurement process.

[DEFINITION OF OFFSET](#)

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Rule 4

Non-discrimination

1. All suppliers must be given an equal opportunity to bid for contracts. Agencies must treat suppliers from another country no less favourably than New Zealand suppliers.
2. Procurement decisions must be based on the best value for money, which isn't always the cheapest price, over the whole-of-life of the goods, services or works.
3. Suppliers must not be discriminated against because of:
 - a. the country the goods, services or works come from
 - b. their degree of foreign ownership or foreign business affiliations.

[MORE INFORMATION ON NON DISCRIMINATION](#)

[Open +](#)

Rule 5

Protection of suppliers' information

1. Each agency must protect suppliers' confidential or commercially sensitive information. This includes information that could compromise fair competition between suppliers.
2. An agency 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 (eg 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.

[MORE INFORMATION ON COMMERCIALLY SENSITIVE INFORMATION](#)

[Open +](#)

Rule 6

Who the Rules apply to

Required application

1. The following agencies must apply the Rules:
 - a. all Public Service departments
 - b. New Zealand Police
 - c. New Zealand Defence Force
 - d. State Services agencies covered by the Whole of Government Direction. A list of these agencies is available on the [Public Sector Agencies](#) page.
2. Crown Research Institutes must have regard to the Rules.
3. Certain agencies not listed in Rules 6.1 and 6.2 are bound to meet the requirements of the WTO Agreement on Government Procurement or other free trade agreements. For these agencies, only those Rules relevant to the commitments made, and procurement covered by, those agreements will apply. A list of these agencies is available on the [Public Sector Agencies](#) page.
4. The agencies identified in Rules 6.1 and 6.2 may be audited for compliance with the Rules (eg by the Auditor-General under the Public Audit Act 2001).

Good practice guidance only
5. 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.
6. Wider State Sector and Public Sector agencies are encouraged to have regard to the Rules as good practice guidance.
7. In applying the Rules as good practice guidance, the agencies identified in Rules 6.5 and 6.6 are to interpret all 'must' Rules as 'should' Rules.

[DEFINING WHO THE RULES APPLY TO](#)

[Open +](#)

[MORE INFORMATION ON THE WHOLE OF GOVERNMENT DIRECTION](#)

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Rule 7

When the Rules apply - goods or services or refurbishment works

1. The Rules apply:
 - a. to the procurement of goods or services or refurbishment works, or a combination of goods or services or refurbishment works, when
 - b. the maximum total estimated value ([Rule 9](#)) of the procurement meets or exceeds the value threshold of \$100,000 (excluding GST).
2. To estimate the maximum total estimated value ([Rule 9](#)) for goods or services or refurbishment works an agency must take into account:
 - a. all related services (eg installation, training, servicing, and management consultancy services)

- b. all types of goods (eg operating consumables)
 - c. all subcontracted goods or services or works.
3. This Rule does not apply to goods, services or refurbishment works that are purchased for commercial resale.

[MORE INFORMATION ON REFURBISHMENT WORKS](#)

[Open +](#)

[EXAMPLE OF GOODS PURCHASED FOR COMMERCIAL RESALE](#)

[Open +](#)

[MORE INFORMATION ON DISPOSALS](#)

[Open +](#)

Rule 8

When the Rules apply - new construction works

1. The Rules apply:
 - a. to the procurement of goods or services or works for new construction works, when
 - b. the maximum total estimated value ([Rule 9](#)) of the procurement meets or exceeds the value threshold of \$10 million (excluding GST).
2. To estimate the maximum total estimated value ([Rule 9](#)) for new construction works an agency must take into account all:
 - a. related services (eg design, architecture, engineering, quantity surveying, and management consultancy services)
 - b. types of goods (eg construction material, health and safety equipment)
 - c. phases of the construction through to completion
 - d. subcontracted goods, services and works.

[MORE INFORMATION ON NO 'SALAMI SLICING'](#)

[Open +](#)

Rule 9

Estimating value

1. Each agency must estimate the total value of a procurement to determine whether it meets or exceeds the relevant value threshold (set out in [Rules 7](#) and [8](#)). Agencies must act in good faith and use good judgement to estimate the value of a procurement. Agencies must include the estimated value in their business case or procurement plan. This estimate is referred to as the maximum total estimated value.
2. Each agency must consider the total value over the whole-of-life of the contract/s when estimating the procurement's maximum total estimated value. The estimate must include the value of all of the contracts that may result from the procurement.
3. The value is the total amount excluding GST.
4. If an agency cannot estimate the maximum total estimated value of a procurement it must apply the Rules.
5. When an agency calculates the maximum total estimated value of a procurement, it must include everything required for the full delivery of the goods, services or works. This includes the value of:
 - a. options to purchase additional goods, services or works
 - b. options to extend the term of the contract
 - c. paying any premiums, fees or commissions to the supplier or a broker
 - d. any revenue streams a supplier receives
 - e. any other form of remuneration or payment due to the supplier or to a third party or any interest payable.

[MORE INFORMATION ON ESTIMATING VALUE](#)

[Open +](#)

[EXAMPLE OF REVENUE STREAMS](#)

[Open +](#)

Rule 10

Non-avoidance

1. An agency must not intentionally avoid applying the Rules when planning for, valuing or undertaking a procurement.
2. When calculating a procurement's maximum total estimated value ([Rule 9](#)), an agency must not intentionally avoid applying the Rules 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.

[MORE INFORMATION ON NUMBER OF CONTRACTS](#)

[Open +](#)

Rule 11

Types of contract

1. The Rules apply to all contract types, including:
 - a. when purchasing outright
 - b. purchasing through hire-purchase
 - c. when renting or leasing
 - d. where there is an option to buy
 - e. Public Private Partnerships
 - f. contracts accessed through a third-party commercial supplier or broker.

[MORE INFORMATION ON THIRD-PARTY COMMERCIAL SUPPLIER OR BROKER](#)

[Open +](#)

Rule 12

Non-procurement activities

1. For the purposes of the Rules the following activities are deemed not to be procurement activities:
 - a. employing staff (excluding the engagement of contractors and consultants)
 - b. disposals and sales by tender
 - c. investments, loans and guarantees
 - d. gifts, donations and any form of unconditional grants
 - e. statutory appointments
 - f. Ministerial appointments
 - g. Core Crown Legal Matters.

[MORE INFORMATION](#)

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Rule 13

Opt-out procurements

1. In certain circumstances, when a procurement is covered by the Rules (meets the requirements of [Rules 6 and 7](#) or [Rules 6 and 8](#)), an agency can opt-out of applying all Rules to that procurement, except those listed in Rule 13.4 and 13.5. These circumstances are listed in Rule 13.3 and are called opt-out procurements.
2. When doing an opt-out procurement, an agency should still conduct its procurement according to the Principles and other procurement good practice guidance. It should also achieve the best value for money over the life of the contract, which isn't always the cheapest price.
3. The following is the list of valid opt-out procurements:
 - a. Between government agencies: Any of the following agencies can purchase goods, services or works from each other:
 - i. Public Service departments
 - ii. New Zealand Police
 - iii. New Zealand Defence Force
 - iv. agencies covered by the Whole of Government Direction ([Rule 6.1](#))
 - v. Crown Research Institutes.

However, if the purchasing agency chooses to use an open competitive process it must apply the Rules.

- b. Overseas: Goods, services or works purchased outside of New Zealand for use outside of New Zealand.

[MORE INFORMATION ON OPT-OUT DECISIONS](#)

[Open +](#)

- c. Offices overseas: Any procurement relating to constructing, refurbishing or furnishing New Zealand government offices overseas.
- d. Non-contractual arrangement: Any non-contractual arrangement (eg a Memorandum of Understanding between two government departments) or any form of assistance including cooperative agreements (eg diplomatic assistance to another government).
- e. 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 [Rules 7 and 8](#).
- f. 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.
- g. 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.
- h. 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.

[MORE INFORMATION ON PROCUREMENT BETWEEN GOVERNMENT AGENCIES](#)

[Open +](#)

[MORE INFORMATION ON CONDITIONAL GRANTS](#)

[Open +](#)

- i. 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.
- j. International agreements between countries: Agreements between countries for the joint implementation of a project.
- k. Public services: The provision of certain types of health services, education services and welfare services. See the [Definitions](#) for more information.
- l. 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 the Treasury. See the [Definitions](#) for more information.
- m. 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:
 - i. procurement of arms, ammunition or war materials
 - ii. stationing military or implementing a joint military project under an international agreement (eg a peace-keeping deployment)
 - iii. 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.

• The following Rules apply to all opt-out procurements:

- a. [Rule 5](#) Protection of suppliers' information
- b. [Rule 47](#) Supplier complaints
- c. [Rule 48](#) Prompt payment
- d. [Rule 49](#) Maintaining records
- e. [Rule 50](#) Audit.

• The following Rules apply to opt-out procurements when relevant:

- a. [Rule 46](#) Debriefing suppliers (if the agency has used a competitive process)
- b. [Rule 55](#) All-of-Government Contracts
- c. [Rule 56](#) Syndicated Contracts
- d. [Rule 57](#) Common Capability Contracts
- e. [Rule 60](#) Geospatial information and services
- f. [Rule 61](#) Intellectual Property

- g. [Rule 62](#) Public Private Partnerships
- h. [Rule 63](#) Business Cases and Investment Decisions
- i. [Rule 64](#) Investment Reviews
- j. [Rule 65](#) Timber and wood products
- k. [Rule 66](#) Employee transfer costs.

Rule 14

Requirement to openly advertise

1. Wherever possible an agency should use open competitive procurement processes to give all suppliers the opportunity to compete.

MORE INFORMATION ON OPEN COMPETITIVE PROCESS

[Open +](#)

- An agency must openly advertise on the Government Electronic Tenders Service (GETS):
 - a. if the maximum total estimated value ([Rule 9](#)) of the procurement meets or exceeds the relevant value threshold ([Rules 7](#) or [8](#)), and there is no exemption from open advertising ([Rule 15](#)).
 - b. Agencies may advertise using other media, as well as GETS.

MORE INFORMATION ON GOVERNMENT ELECTRONIC TENDERS SERVICE

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Rule 15

Exemption from open advertising

1. An agency does not need to openly advertise a contract opportunity on GETS if an exemption from open advertising under Rule 15.9 applies.
2. If the procurement is exempt from open advertising, an agency must use either a closed competitive process (with a limited number of known suppliers) or a direct source process (with a known supplier).
3. An agency must not exempt a procurement from open advertising to:
 - a. avoid competition
 - b. protect domestic suppliers
 - c. discriminate against any domestic or international supplier.

Document the rationale

4. If an agency exempts a procurement from open advertising under Rule 15.9, it must:
 - a. obtain evidence of the facts and circumstances to verify the reason/s for the exemption before starting the procurement, and
 - b. document the rationale for the decision. This rationale may form part of the business case or procurement plan or may be a stand-alone document.
5. 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 9](#)) of the goods, services or works
 - d. the specific exemption/s, that applies (from the list in Rule 15.9)
 - e. details of the facts and circumstances which justify the exemption.
6. A senior manager must endorse the rationale before the agency undertakes the procurement. The agency must retain the documented rationale for audit purposes.
7. If MBIE asks for the documented rationale, the agency must promptly make it available.

MORE INFORMATION ON CLOSED COMPETITIVE AND DIRECT SOURCE

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GETS Contract Award Notice

8. Agencies must publish a Contract Award Notice ([Rule 45](#)) on GETS for any procurement that it has exempted from open advertising, except when doing secondary procurement (Rule 15.9.i).
9. Valid exemptions from open advertising are:
 - a. 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.
 - b. Following an open tender: An agency may use a closed competitive process or direct source process to procure goods, services and works if:
 - i. it has openly advertised the contract opportunity in the last 12 months, and
 - ii. it has not substantially changed the core procurement requirements, and
 - iii. the first time the opportunity was advertised it:
 - (a) did not receive any responses, or
 - (b) did not receive any responses that complied with the pre-conditions ([Rule 25](#)) or conformed with or met the requirements (including quantity), or
 - (c) 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 25](#)) or conformed with or met the requirements.
 - c. 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:
 - i. for technical reasons there is no real competition, or
 - ii. the procurement relates to the acquisition of intellectual property or rights to intellectual property (including patents or copyrights), or other exclusive rights, or
 - iii. the procurement is for a work of art.
 - d. 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:
 - i. the original contract was openly advertised, and
 - ii. a change of supplier cannot be made for economic or technical reasons, and
 - iii. a change of supplier would cause significant inconvenience or substantial duplication of costs for the agency.
 - e. 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:
 - i. carry out field tests and incorporate the findings, or
 - ii. 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.

f. Commodity market: Goods purchased on a commodity market.

g. 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.

h. Design contest: Where a contract is awarded to the winner of a design contest. To meet this exemption:

- i. the design contest must have been organised in a manner which is consistent with the Rules, and
- ii. the contest must be judged by a panel whose members understand that the winner will be awarded a contract, and
- iii. members of the panel do not have any conflict of interest in carrying out the judging of the contest.

i. Secondary procurement: Where an agency has established a Panel of Suppliers (in accordance with [Rule 54](#)) or is purchasing under an All-of-Government Contract ([Rule 55](#)), Syndicated Contract ([Rule 56](#)) or Common Capability Contract ([Rule 57](#)), it does not need to openly advertise individual contract opportunities that are awarded through that arrangement.

j. Unsolicited unique proposal: Where an agency receives an unsolicited proposal, as described in MBIE's Guide to unsolicited unique proposals, and all of the following apply:

- i. the proposal is unique
- ii. the proposal aligns with government objectives
- iii. the goods, services or works are not otherwise readily available in the market place
- iv. the proposal represents value for money.

[GUIDE TO EMERGENCY PROCUREMENT](#)

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[MORE INFORMATION ON COLLUSION AND BID RIGGING](#)

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[MORE INFORMATION ON ADDITIONAL GOODS, SERVICES OR WORKS](#)

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[EXAMPLES OF TECHNICAL REASONS](#)

[Open +](#)

[EXAMPLES OF A PROTOTYPE](#)

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[DEFINITION OF COMMODITY MARKET](#)

[Open +](#)

[MORE INFORMATION ON EXCEPTIONALLY ADVANTAGEOUS CONDITIONS](#)

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[GUIDE TO UNSOLICITED UNIQUE PROPOSALS](#)

[Open +](#)

2 - Planning your procurement

Procurement planning

[Rule 16 - Strategic Procurement Outlooks](#)

[Rule 17 - Annual Procurement Plans](#)

[Rule 18 - Extended Procurement Forecasts](#)

[Rule 19 - Significant business cases](#)

Preparing to approach the market

[Rule 20 - Third-party agents](#)

[Rule 21 - Procurement advice](#)

[Rule 22 - Subcontracting](#)

[Rule 23 - Delivery date](#)

[Rule 24 - Technical specifications](#)

[Rule 25 - Pre-conditions](#)

How much time should I give to suppliers to respond?

[Rule 26 - Sufficient time](#)

[Rule 27 - Minimum time periods](#)

[Rule 28 - Allowable reductions](#)

[Rule 29 - Business day](#)

[Rule 30 - Fair application of time](#)

[Rule 31 - Minimum time periods by process](#)

Rule 16

Strategic Procurement Outlooks

Rule 16 was rescinded by Cabinet on 30/03/2015

[MORE INFORMATION ON ANNUAL PROCUREMENT PLANS](#)

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Rule 17

Annual Procurement Plans

1. An agency must submit an Annual Procurement Plan (APP) to MBIE for publication.
2. An APP is a list of planned contract opportunities over the next 12 months. An agency may include such information for a longer period, at its discretion. An APP must:
 - a. include a brief description of the agency's purpose and the types of goods, services or works it mainly buys
 - b. contain all known or anticipated contract opportunities that the Rules apply to.
 An APP may contain other contract opportunities that the Rules don't apply to, at the agency's discretion.
3. An APP is for planning purposes and does 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.
4. Each agency must review and update its APP at least once every six months. An agency may update its APP more often, if appropriate.
5. Updated APPs are due by 1 March and 1 October each year.

Rule 18

Extended Procurement Forecasts

1. In addition to submitting an Annual Procurement Plan, an agency must submit an Extended Procurement Forecast (EPF) to MBIE to assist with cross-government planning.
2. An EPF is a list of forecast contract opportunities over the next 4 years which fall into one or more of the following categories:
 - a. have an estimated total value over the whole-of-life of the contract of \$5 million or more
 - b. due to the nature or complexity of the procurement, it would expose the agency or government to significant risks if it were not delivered to specification, within budget and on time
 - c. have the potential for cross-government collaboration or resource sharing.
3. Each agency must review and update its EPF at least once a year. An agency may update its EPF more often, if appropriate.
4. Updated EPFs are due by 1 October each year.

Rule 19

Significant procurement plans

1. An agency must submit to MBIE, for review, procurement plans for procurements that fall into one or more of the following categories:
 - a. have an estimated total value over the whole-of-life of the contract of \$5 million or more
 - b. due to the nature or complexity of the procurement, it would expose the agency or government to significant risks if it were not delivered to specification and within budget and on time
 - c. have the potential for cross-government collaboration or resource sharing.

These are called significant procurement plans.

2. An agency should have regard to the advice and feedback provided by MBIE on its significant procurement plans.
3. This requirement does not apply where a procurement plan is part of a business case that is subject to review under another governance process (eg Syndicated Contracts ([Rule 56](#)) or investment decision reviews ([Rule 63](#))).

[MORE INFORMATION ON PROCUREMENT PLAN](#)

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[MORE INFORMATION ON REVIEW PURPOSE](#)

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Rule 20

Third-party agents

1. An agency may purchase the services of a third-party agent (eg an external procurement consultant) to advise, arrange or manage a procurement, or part of a procurement, on its behalf.
2. If an agency uses a third-party agent to manage a procurement, the agency, through the agent, must still comply with the Rules.

Rule 21

Procurement advice

1. An agency should not purchase procurement advice from a supplier that has a commercial interest in the contract opportunity, and to do so would prejudice fair competition (eg a supplier is asked to write the contract requirements and then bids for the contract opportunity).

Rule 22

Subcontracting

1. Once a supplier has been awarded the contract, any subsequent subcontracting that the supplier does is not subject to the Rules.
2. However, an agency should ask that a prime contractor meet certain procurement standards in its subcontracting. The standards should be consistent with good procurement practice, as outlined in the Principles, the Rules and other procurement guidance.

[MORE INFORMATION ON PROCUREMENT ADVICE](#)

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Rule 23

Delivery date

1. When identifying or estimating the delivery date for the goods, services or works, an agency should take into account any of the following factors that apply:
 - a. the complexity of the procurement
 - b. how much subcontracting there might be
 - c. a realistic time to produce, stock and transport goods from the point of supply to the delivery address
 - d. a realistic time to deliver services given their nature and scope.

Rule 24

Technical specifications

1. An agency must not apply technical specifications or prescribe conformance requirements in a way that creates unnecessary obstacles for

- suppliers.
- 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. When an agency describes technical specifications, it must not (except under Rule 24.4):
 - 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. The exception to Rule 24.3 is when it is the only way to make the requirements understood. In this case, an agency must include words like 'or equivalent' in the specification and make it clear that it will consider equivalent goods, services or works that can be demonstrated to fulfil the requirement.

[MORE INFORMATION ON USING TRADEMARKS](#)

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[INTERNATIONAL STANDARDS](#)

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Rule 25

Pre-conditions

1. An agency may include essential conditions for participation in a procurement process in its Notice of Procurement ([Rule 34](#)). These are called pre-conditions.
2. Suppliers must meet all of the pre-conditions to be considered for the contract opportunity.
3. An agency 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.
4. An agency 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.
5. To assess whether a supplier meets the pre-conditions, an agency must:
 - a. evaluate responses against the pre-conditions that it published in its Notice of Procurement ([Rules 34](#) and [35](#)), and
 - b. take into account the supplier's business activities in New Zealand and overseas.

[MORE INFORMATION ON PRE-CONDITIONS](#)

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Rule 26

Sufficient time

1. An agency must allow sufficient time for suppliers to respond to a Notice of Procurement ([Rule 34](#)). It must act in good faith and use sound judgement when calculating sufficient time.
2. The key factors to take into account when calculating sufficient time include:
 - 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 any 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.

[MORE INFORMATION ON CALCULATING SUFFICIENT TIME](#)

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Mandatory minimum time periods are explained in [Rules 27](#) to [31](#). The examples here show that sufficient time may be longer than the minimum time periods and will vary depending on the nature and complexity of the procurement.

Example 1

Simple one-step Request for Quote

Scenario - The request is for a large quantity of an off-the-shelf product. You need a fixed price and a guaranteed delivery date.

Time for suppliers to:	Business Days
check GETS notices and download all documents	1
read and analyse the documents	1
ask for and get answers to questions	4
check stock and supply chain logistics	4
prepare pricing information	2
check the price and get the quote approved	1
arrange for the quote to be delivered on time	1
Total number of business days	14

Example 2

One-step Request for Proposal

Scenario - You need to review a social policy programme. This requires a team of three experts. You ask suppliers to propose their own methodology and provide a detailed work plan, budget quote and timeline for delivery. It is likely that there will be some joint bids or subcontracting involved.

Time for suppliers to:	Business Days
check GETS notices and download all documents	1
read and analyse the documents	1
ask for and get answers to questions	4
check experts' availability	2
consult all experts to develop and test the methodology, work plan and timeline	10
check fee rates and develop a detailed budget	3
check proposal and price and get it approved	2
arrange for the proposal to be delivered on time	4
Total number of business days	27

HOW MUCH IS SUFFICIENT TIME?

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Rule 27

Minimum time periods

1. The Rules set minimum time periods for each of the procurement processes listed in [Rule 31](#).
2. If any allowable reductions apply ([Rule 28](#)), you can deduct them from the minimum time period. The result is the new minimum time period.
3. The sufficient time ([Rule 26](#)) an agency sets for a procurement must not be less than the minimum time period ([Rule 31](#)) or the new minimum time period, if one applies.

Rule 28

Allowable reductions

1. An agency can claim allowable reductions if it complies with the requirements in any of the following circumstances:
 - a. Prior listing in Annual Procurement Plan - The agency must have listed the contract opportunity in its Annual Procurement Plan not less than 2 months and no more than 8 months before the Notice of Procurement is published on GETS.
 - b. All documents available electronically - All tender documents must be available electronically on GETS at the same time as the Notice of Procurement is published.
 - c. Responses accepted electronically - An agency must state in its Notice of Procurement that it will accept electronic responses and tell suppliers how to send those responses (eg by email).
2. An agency may make documents available electronically (under Rule 28.1.b) through another website or e-procurement system. An allowable reduction can be claimed only if:
 - a. the URL address for the other website or e-procurement system is published in the GETS listing, and
 - b. the tender documents are free for suppliers to access and download, and
 - c. access to the documents is instant. If suppliers need to register, the registration process must be automated and instant.
3. The allowable reductions for each type of procurement process (eg RFQ / RFP) are shown in [Rule 31](#).

Example

Applying allowable reductions

- An agency plans a one-step Request for Proposal process for procuring consultancy services.
- The minimum time period for this process is 25 business days ([Rules 27, 29](#) and [31.a](#)).
- The agency can reduce the minimum time period because it previously listed the opportunity in its Annual Procurement Plan (less 3 days) and has arranged for proposals to be received electronically by email (less 3 days).
- The agency has another tender document, a civil engineering plan, which it can't publish on GETS. It has to send it to suppliers in hard copy on request. The agency can't claim the third allowable reduction because not all tender documents are available electronically.
- The minimum time period is reduced by 6 business days from 25. This results in a new minimum time period of 19 business days.

Calculation	
Minimum time period	25
Prior listing in Annual Procurement Plan	-3
Receive responses electronically	-3
New minimum time period	19

Rule 29

Business day

1. An agency must calculate time periods in clear business days.
2. A business day is a day when New Zealand government agencies and suppliers are normally open.
3. Business days exclude Saturdays and Sundays, New Zealand (national) public holidays and all days between Boxing Day and the day after New Year's Day.
4. A clear business day is a full day from 9am to 5pm. The day a Notice of Procurement is submitted for publication on GETS is not a clear business day.

day. The time starts on the next business day at 9am.

[MORE INFORMATION ON NEW ZEALAND NATIONAL PUBLIC HOLIDAYS](#)

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Rule 30

Fair application of time

1. The time period an agency sets for submitting responses must apply to all interested domestic and international suppliers.
2. Other than in exceptional circumstances, no supplier can be given more or less time than any other supplier.
3. 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 must not accept a late response if:
 - a. there is any risk of collusion on the part of the supplier
 - b. the supplier may have knowledge of the content of any other response
 - c. 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.

[EXAMPLE OF CLEAR BUSINESS DAY](#)

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Rule 31

Minimum time periods by process

The following minimum time periods must be applied to the following types of procurement processes detailed in Rules 31.a and 31.b. Days are expressed in clear business days.

31. a. One-step processes

A one-step process can include a Request for Quote (RFQ), Request for Tender (RFT) or Request for Proposal (RFP).

One-step processes	business days	
	RFQ	RFT/RFP
Minimum time period (Rule 27)	13	25
Allowable reductions (Rule 28)		
a. Prior listing in Annual Procurement Plan	-1	-3
b. All tender documents available electronically on GETS	-3	-4
c. Suppliers' tenders or proposals accepted electronically	-1	-3
New minimum time period (if all allowable reductions apply)	8	15

[MORE INFORMATION ON TENDER PROCESSES](#)

[Open +](#)

31. b. Multi-step processes

A multi-step process can include:

- a Registration of Interest followed by a Request for Tender (RFT) or Request for Proposal (RFP), or
- an Invitation to Participate in a Competitive Dialogue process followed by a RFT or RFP.

Step one	business day ROI/ITP
Minimum time period (Rule 27)	20
Allowable reduction (Rule 28)	
a. Prior listing in Annual Procurement Plan	-3
b. All tender documents available electronically on GETS	-4
c. Suppliers' tenders or proposals accepted electronically	-3
New minimum time period (if all allowable reductions apply)	10

Step two	business days RFT/RFP
Minimum time period (Rule 27)	25
Allowable reductions (Rule 28)	
a. Tender documents available electronically to short listed suppliers	-5
b. Suppliers' tenders or proposals accepted electronically	-5
New minimum time period (if all allowable reductions apply)	15

3 - Approaching the market

How do I openly advertise?

[Rule 32 - Open advertising](#)

[Rule 33 - GETS listing](#)

[Rule 34 - Notice of Procurement](#)

[Rule 35 - Content of Notice of Procurement](#)

[Rule 36 - Other tender documents](#)

Managing the procurement process

[Rule 37 - Responding to queries](#)

[Rule 38 - Additional information](#)

[Rule 39 - Changes to process or requirements](#)

Evaluating responses

[Rule 40 - Treatment of responses](#)

[Rule 41 - Reasons to exclude a supplier](#)

[Rule 42 - E-auction](#)

Rule 32

Open advertising

1. Under [Rule 14](#) an agency must openly advertise a contract opportunity unless an exemption under [Rule 15](#) applies.
2. To openly advertise, an agency must do all of the following at the same time:
 - a. list the contract opportunity on GETS ([Rule 33](#))
 - b. publish a Notice of Procurement on GETS ([Rules 34](#) and [35](#)) and it must make it available free of charge
 - c. provide access to all relevant tender documents ([Rule 36](#)) and it should make them available free of charge.

Rule 33

GETS listing

1. The GETS listing must attach the Notice of Procurement and contain the following information:
 - a. the agency's name
 - b. the name of the contract opportunity
 - c. the type of procurement process (eg Request for Tender)
 - d. the relevant GETS tender watch code/s
 - e. the deadline for responses from suppliers
 - f. the address for enquiries and the name of the contact person
 - g. a list of any other tender documents that aren't available on GETS and details of how suppliers can get them.

Rule 34

Notice of Procurement

1. The Notice of Procurement must:
 - a. be published on GETS
 - b. be available on GETS until the deadline for supplier responses
 - c. contain all of the information required under Content of Notice of Procurement ([Rule 35](#)).
2. A Request for Information (RFI) is not a Notice of Procurement. It is a market research tool. Agencies must not use a Request for Information to select or shortlist suppliers.

Rule 35

Content of Notice of Procurement

1. Each Notice of Procurement must contain all of the information that suppliers need to prepare and submit meaningful responses.
2. Each Notice of Procurement must clearly identify which procurement process is being used (eg Request for Quote or Registration of Interest followed by a Request for Tender).
3. Subject to [Rule 35.4](#), 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. a description of the goods, services or works and any technical specifications, plans, drawings or instructions, or a description of the outcomes the supplier is expected to deliver
 - d. the quantity (if known) or estimated quantity of the goods, services or works
 - e. 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 (eg 3 + 2 + 1 years)
 - f. any service levels, response times or other performance measures suppliers will need to meet
 - g. any conditions for participating in the procurement process including any pre-conditions ([Rule 25](#)) or certificates or standards the supplier must meet
 - h. any limitations on the number of suppliers that may be shortlisted
 - i. all evaluation criteria the agency will use to assess responses
 - j. unless the price is the only criterion, an indication of the relative importance of each evaluation criterion
 - k. the deadline and address for submitting responses
 - l. any restrictions or instructions on how suppliers are to submit responses (eg faxes will not be accepted) or details of how responses are to be submitted through an e-procurement system
 - m. any other terms or conditions relating to the procurement or the procurement process
 - n. if the procurement will be conducted electronically (eg using e-tender software), all the information suppliers will need to participate

electronically

- o. if the procurement may involve an e-auction, the rules of the e-auction and all of the information and training suppliers need to participate in the e-auction (Rule 35.4.c and [Rule 42](#)).
4. 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, eg:
 - a. a more complete description of the goods, services or works
 - b. the detailed evaluation criteria the agency will use to award the contract
 - c. full instructions on how the e-auction will be conducted.

[MORE INFORMATION ON EVALUATION CRITERIA](#)

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[MORE INFORMATION ON GOOD PRACTICE](#)

[Open +](#)

[MORE INFORMATION ON MULTI STEP PROCESSES](#)

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Rule 36

Other tender documents

1. Other tender documents are documents that are relevant and essential to the procurement.
2. These documents may be included in the Notice of Procurement as annexes. If they are standalone documents, they may also be referred to in the Notice of Procurement.
3. An agency should make other tender documents available to suppliers at the same time the GETS listing and the Notice of Procurement are published. Where possible, they should be uploaded as attachments to the GETS listing. This will count as an allowable reduction ([Rule 28](#)) to the minimum time period ([Rule 27](#)).
4. If other tender documents can't be made available on GETS, agencies must state in the GETS listing how suppliers can obtain a copy (eg by requesting a hard copy or by referencing an e-procurement system where the document is freely available). An agency must promptly provide a copy, to any supplier who requests one, or provide instructions on how to obtain one from an e-procurement system.

[EXAMPLES OF OTHER TENDER DOCUMENTS](#)

[Open +](#)

Rule 37

Responding to queries

1. Suppliers may ask questions about any Notice of Procurement.
2. An agency must promptly reply to all questions and reasonable requests for information from suppliers. If an agency is unable to promptly reply to a question, it should consider extending the deadline for responses.
3. When an agency responds to a supplier's question, it must not give information that might give that supplier an unfair advantage over the other suppliers. If an agency wishes to disclose advantageous information, it must make it available to all suppliers at the same time.
4. When an agency responds to a supplier's question, it must not discuss or disclose another supplier's confidential or commercially sensitive information.

Rule 38

Additional information

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

[EXAMPLES OF PARTICIPATING SUPPLIERS](#)

[Open +](#)

Rule 39

Changes to process or requirements

1. An agency may make changes to its procurement process or its requirements after a Notice of Procurement has been published on GETS and before the deadline for responses closes.
2. An agency must notify all participating suppliers of any changes to the procurement process or requirements. An agency must publish all changes on GETS or, following a shortlisting, send them to all participating suppliers.
3. An agency must make all changes available to all participating suppliers at the same time.
4. An agency must give 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.

[MORE INFORMATION ON CHANGING TO PROCUREMENT PROCESSES OR REQUIREMENTS](#)

[Open +](#)

Rule 40

Treatment of responses

1. An agency must have in place procedures that guarantee that all suppliers' responses are treated fairly. This includes receiving, opening and evaluating responses.
2. To be considered for an award of contract, a supplier must:
 - a. submit its response in writing (this can be through electronic means such as email or an e-procurement system)
 - b. comply with all pre-conditions ([Rule 25](#)) if any, or other conditions for participating in the contract opportunity.
3. An agency must not penalise a supplier who submits a late response, if the delay is solely the agency's fault.
4. 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 41

Reasons to exclude a supplier

1. An agency may exclude a supplier from participating in a contract opportunity if there is a good reason for exclusion. Reasons for exclusion include:
 - a. bankruptcy, receivership or liquidation
 - b. making a false declaration
 - c. a serious performance issue in a previous contract
 - d. a conviction for a serious crime or offence
 - e. professional misconduct
 - f. an act or omission which adversely reflects on the commercial integrity of the supplier
 - g. failing to pay taxes, duties or other levies
 - h. a threat to national security or the confidentiality of sensitive government information
 - i. the supplier is a person or organisation designated as terrorists by New Zealand Police.
2. An agency must not exclude a supplier before it has evidence supporting the reason for the exclusion.

[MORE INFORMATION ON BID RIGGING](#)

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Rule 42

E-auction

1. An agency may run an e-auction after its initial evaluation of proposals. An e-auction is a scheduled online event where suppliers bid against each other on price, quality or other quantifiable criteria.
2. An agency must notify suppliers in advance if it intends to run an e-auction. This 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, an agency 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. any other relevant information about how the e-auction is run.
5. An agency must offer to train each participating supplier to use the hosted e-auction website or the e-auction software before the e-auction begins.

[MORE INFORMATION ON E-AUCTIONS](#)

[Open +](#)

4 - Awarding the contract

Awarding the contract

- [Rule 43 - Awarding the contract](#)
- [Rule 44 - Informing suppliers of the decision](#)
- [Rule 45 - Contract Award Notice](#)
- [Rule 46 - Debriefing suppliers](#)
- [Rule 47 - Supplier complaints](#)

Contract administration

- [Rule 48 - Prompt payment](#)
- [Rule 49 - Maintaining records](#)
- [Rule 50 - Audit](#)

Rule 43

Awarding the contract

1. An agency must, unless there is a legitimate reason to cancel the procurement, award the contract to the supplier/s that has both:
 - a. demonstrated that it fully understands and has the capability to deliver the requirements and meet the contract conditions, and
 - b. offered either the:
 - i. best value for money over the whole life of the goods, services or works (which isn't always the cheapest price), or
 - ii. lowest price, if price is the only criterion.
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 (eg quality, quantity, time and location) and meeting all of the contract conditions for the price quoted.
3. An agency must not cancel a procurement, use options or modify or terminate an awarded contract to avoid applying the Rules.

[EXAMPLES OF REASONS TO CANCEL A PROCUREMENT](#)

[Open +](#)

[MORE INFORMATION ON VALUE FOR MONEY](#)

[Open +](#)

[MORE ON DUE DILIGENCE AND WHOLE OF LIFE COSTS](#)

[Open +](#)

Rule 44

Informing suppliers of the decision

1. After evaluating the responses and making the decision to award the contract to a particular supplier/s, an agency must promptly inform all of the unsuccessful suppliers in writing of this decision.

Rule 45

Contract Award Notice

1. An agency must publish a Contract Award Notice on GETS when it has awarded a contract that is subject to the Rules. This Notice must be published whether or not the contract was openly advertised, unless it is:
 - a. an opt-out procurement ([Rule 13](#)) or
 - b. secondary procurement ([Rule 15.9.i](#)).
2. An agency must publish the Contract Award Notice on GETS within 30 business days of all parties signing the contract/s. 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 exemption from open advertising ([Rule 15](#)), the circumstances that justify the exemption.

[MORE INFORMATION ON COMMUNICATING CONTRACT AWARD](#)

[Open +](#)

Rule 46

Debriefing suppliers

1. All suppliers must have the opportunity to be debriefed following a procurement. An agency must offer each unsuccessful supplier a debrief.
2. When a supplier asks an agency for a debrief, the agency must debrief that supplier 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 later.
3. At the debrief, an agency must not disclose another supplier's confidential or commercially sensitive information ([Rule 5](#)).
4. An agency should provide information at the debrief that helps the supplier to improve future tenders or responses. 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 25](#)) and its relative strengths and weaknesses
 - c. explain the relative advantage/s of the successful proposal
 - d. address the supplier's concerns and questions.

[MORE INFORMATION ON DEBRIEFING](#)

[Open +](#)

Rule 47

Supplier complaints

1. A supplier may complain to an agency if it believes the agency has not followed the Rules. An agency must consider and respond promptly and impartially to a complaint. An agency must try to resolve any complaints in good faith.
2. 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.
3. 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 (eg the Office of the Auditor-General, the Ombudsman, the Commerce Commission or a court of law).
4. Without limiting its legal rights, an agency must fully cooperate in any review or hearing of a supplier's complaint by a competent authority.

[MORE INFORMATION ON SUPPLIER REDRESS](#)

[Open +](#)

Rule 48

Prompt payment

1. Each agency should ensure prompt payment of suppliers' invoices. At a minimum, invoices must be paid at the time/s set out in the contract, or earlier if possible.

[MORE INFORMATION ON PROMPT PAYMENT](#)

[Open +](#)

Rule 49

Maintaining records

1. Without limiting its obligations under the [Public Records Act 2005](#), an agency must keep records of each procurement for at least three years from the date the contract was signed by all parties.
2. The records must document the procurement process, all decisions, the contract awarded and include all recommendations and reports.
3. 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 50

Audit

1. An agency must keep records ([Rule 49](#)) for audit purposes.

5 - Types of supplier lists

Types of supplier lists

[Rule 51 - Types of supplier lists](#)

[Rule 52 - Registered Suppliers List](#)

[Rule 53 - Pre-qualified Supplier List](#)

[Rule 54 - Panel of Suppliers](#)

Rule 51

Types of supplier lists

1. If an agency regularly purchases a specific type of good, service or works, it may establish a list of suppliers. Common types of lists include:
 - a. Registered Suppliers List ([Rule 52](#))
 - b. Pre-qualified Suppliers List ([Rule 53](#))
 - c. Panel of Suppliers ([Rule 54](#)).

Rule 52

Registered Suppliers List

1. A Registered Suppliers List is a list of suppliers who have registered an interest in supplying specific types of goods, services or works.
2. A Registered Suppliers List is appropriate where an agency wants to know which suppliers are active in the market supplying the specific type of good or service.
3. An agency that establishes a Registered Suppliers List is not exempt from open advertising where a contract opportunity meets or exceeds the relevant value threshold ([Rules 7 and 8](#)). An agency must openly advertise each such contract opportunity on GETS. Registered suppliers should make sure that they are listed on GETS under the correct tender watch code/s to receive notifications.

Establishing a Registered Suppliers List

4. To establish a Registered Suppliers List, an agency must:
 - a. publish an Invitation to Register (a type of Notice of Procurement) on GETS and make it continuously available
 - b. allow suppliers to respond at any time, or at specific deadlines for responses
 - c. clearly describe, in the invitation, the specific type of goods, services or works the agency is interested in procuring
 - d. add to the list any suppliers who wish to register, as soon as possible
 - e. notify unsuccessful applicants promptly and, if requested, provide the reason/s why.

Operating a Registered Suppliers List

5. To operate a Registered Suppliers List an agency must:
 - a. keep an updated list of registered suppliers and make this publicly available at all times (eg on the agency's website), and
 - b. notify registered suppliers if the list is terminated or they are removed from the list. If an agency removes a supplier from a list, it must explain why.

Rule 53

Pre-qualified Suppliers List

1. A Pre-qualified Suppliers List is a list of suppliers who an agency has pre-approved as capable of delivering specific types of goods, services or works.
2. A Pre-qualified Suppliers List is appropriate if an agency wants to:
 - a. verify which suppliers can deliver specific goods, services or works
 - b. make it easier for suppliers to respond to contract opportunities by only asking for qualifying information once.
3. An agency that establishes a Pre-qualified Suppliers List is not exempt from open advertising where a contract opportunity meets or exceeds the relevant value threshold ([Rules 7 and 8](#)). An agency must openly advertise each contract opportunity on GETS. Pre-qualified suppliers should make sure that they are listed on GETS under the correct tender watch code/s to receive notifications.

Establishing a Pre-qualified Suppliers List

4. To establish a Pre-qualified Suppliers List an agency 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 specific goods, services or works potential suppliers must be capable of delivering
 - iii. a list of any conditions that each supplier must meet to participate and how the agency will check each supplier meets the conditions
 - 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 qualifying suppliers to the list as soon as possible
 - e. notify unsuccessful applicants promptly and, if requested, provide the reason/s why.

Operating a Pre-qualified Suppliers List

5. To operate a Pre-qualified Suppliers List an agency must:
 - a. keep an updated list and make this publicly available at all times (eg on the agency's website)
 - b. notify pre-qualified suppliers if the list is terminated or they are removed from the list. If an agency removes a supplier from a list it must explain why.

Managing contract opportunities

6. If a contract opportunity arises for the specific goods, services or works that a Pre-qualified Suppliers List was established for, an agency must:
 - a. openly advertise the contract opportunity on GETS. Pre-qualified suppliers should make sure that they are listed on GETS under the correct

- tender watch code/s to receive notifications
- b. allow any unqualified supplier to submit an Application to Qualify either prior to or along with its response to the Notice of Procurement.
- 7. If a supplier submits an Application to Qualify before or with its response, the agency 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 there is enough time to complete the qualification process
 - c. promptly notify the supplier of the decision.

[MORE INFORMATION ON PRE-QUALIFIED SUPPLIERS LISTS](#)

[Open +](#)

Rule 54

Panel of Suppliers

1. A Panel of Suppliers (Panel) is a list of suppliers who have been pre-approved by an agency and who have agreed to the terms and conditions for supply.
2. 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 (eg agreed hourly fee) or the pricing mechanism that will apply.
3. Once a Panel has been established through an open process under the Rules, an agency does not need to openly advertise individual contract opportunities. It may purchase directly from the panel. This is called secondary procurement.
4. When purchasing from the Panel the agency must use the specified method (Rule 54.10) to select a supplier.

Establishing a Panel of Suppliers

5. An agency must openly advertise the opportunity to be selected for the Panel of Suppliers in accordance with [Rules 14](#) and [32](#).
6. The Notice of Procurement must comply with [Rule 34](#) and include the content specified in [Rule 35](#). It must also include the following information:
 - a. the terms and conditions of supply that will apply (eg the framework agreement)
 - b. the method/s the agency will use to award contracts to suppliers on the Panel (ie the secondary procurement process (Rule 54.10))
 - c. how the agency will contract with a supplier who agrees to deliver a specific goods or service or works
 - d. the period of time the Panel will be established for
 - e. whether or not the Panel is 'open' or 'closed'
 - f. any circumstances that may lead to a supplier being removed from the Panel.
7. The Notice of Procurement (Notice) can be:
 - a. a one-off Notice to establish the Panel
 - b. a standing Notice which is made available continuously on GETS that allows interested suppliers to respond on an ongoing basis
 - c. an occasional Notice that is published from time to time when an agency wants to refresh or expand the Panel.
8. It is expected that an agency will appoint more than one supplier to a Panel.

[MORE INFORMATION ON ESTABLISHING PANELS](#)

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Method of allocation of contracts

9. The Notice of Procurement used to establish the Panel must outline the method/s that the agency will use to select suppliers when a contract opportunity arises (secondary procurement process). The method/s should be appropriate for the nature of the goods, services or works and the anticipated volume of work.
10. Accepted selection methods for secondary procurement processes include:
 - a. competitive quotes based on the lowest price: Ask for quotes from some or all of the Panel Suppliers and award the opportunity to the supplier who offers the lowest price
 - b. competitive quotes based on the supplier's expertise, proposed solution and best value for money: Ask for quotes from some or all Panel Suppliers and award the opportunity to the supplier who has the right level of expertise, can offer the best value for money, which isn't always the cheapest price, and deliver on time
 - c. direct source, based on the best fit for purpose: Fair evaluation of all Panel Suppliers and selection of the supplier who has the right capacity and capability to fulfil the opportunity and offers the best value for money, which isn't always the cheapest price, at the time of the purchase
 - d. rotation: Award opportunities to each supplier in turn regardless of their expertise, value for money, which isn't always the cheapest price, or delivery time
 - e. equal division of the work: Fix an upper limit for the amount of work that can be awarded to each supplier and award opportunities on a rotational basis. When a supplier reaches the upper limit, the agency chooses the next supplier from the Panel
 - f. preferred supplier basis: Identify a preferred supplier from the Panel. This supplier receives most of the opportunities unless it has a conflict of interest or is unable to supply. If this happens, the agency will award the opportunity to the next-ranked supplier from the Panel
 - g. location: Award opportunities to the supplier who is best able to deliver based on their location and the location of the work.

6 - Other rules you need to know

Other rules you need to know

- [Rule 55 - All-of-Government Contracts \(AoGs\)](#)
- [Rule 56 - Syndicated Contracts](#)
- [Rule 57 - Common Capability Contracts](#)
- [Rule 58 - Web standards](#)
- [Rule 59 - Approved Government Model Templates](#)
- [Rule 60 - Geospatial information and services](#)
- [Rule 61 - Intellectual Property](#)
- [Rule 62 - Public Private Partnerships \(PPPs\)](#)
- [Rule 63 - Businesses cases and investments decisions](#)
- [Rule 64 - Investment reviews](#)
- [Rule 65 - Timber and wood products](#)
- [Rule 66 - Employee transfer costs](#)

Rule 55

All-of-Government Contracts

1. An All-of-Government Contract (AoG) is a type of approved collaborative contract. AoGs establish supply agreements with approved suppliers for selected common goods or services purchased across government. AoGs are developed under the oversight of the Procurement Functional Leader and managed by appointed procurement Centres of Expertise.
2. All agencies must purchase from the AoGs, unless there is a good reason not to.

3. Agencies who want to opt-out of purchasing from an AoG, must get approval from the Procurement Functional Leader. If an agency and the Procurement Functional Leader fail to agree to an opt-out, the State Services Commissioner will decide the matter.
4. Before approaching the market, an agency should check if there is an existing AoG which meets its needs.

[MORE INFORMATION ON AOG CONTRACTS](#)

[Open +](#)

Rule 56

Syndicated Contracts

1. 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:
 - a. 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.
 - b. A Closed Syndicated Contract is limited to a group of named agencies.
2. Agencies wishing to establish an OSC must first obtain approval from the Procurement Functional Leader.
3. Before approaching the market, an agency should check if there is an existing OSC that meets its needs in the [Collaborative Contracts Register](#).

[MORE INFORMATION ON SYNDICATED CONTRACTS](#)

[Open +](#)

Rule 57

Common Capability Contracts

1. 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. CCs may be established by a Functional Leader's agency or by another lead agency that is approved and overseen by a Functional Leader, with prior approval from the Procurement Functional Leader.
2. CCs may cover mandatory and / or voluntary common capabilities:
 - a. Mandatory common capabilities: Some agencies may be directed to purchase certain goods, services or works from a CC. These are called mandatory common capabilities. The direction may be made by Cabinet, a Functional Leader, or under section 107 of the Crown Entities Act 2004. An agency that wants to opt-out of purchasing mandatory common capabilities must get approval from the relevant Functional Leader. Information about mandatory common capabilities is available on the [Common capability contracts](#) page and www.ict.govt.nz
 - b. Voluntary common capabilities: when a common capability is voluntary, an agency should purchase from the CC when it reasonably meets the agency's needs.
3. Before approaching the market, an agency should check if there is an existing CC contract that meets its needs. CCs are listed in the [Collaborative Contracts Register](#).

How mandatory common capabilities apply across the Public Sector

	Property	ICT	Other Procurement
Mandatory	<ul style="list-style-type: none"> • Public Service departments • New Zealand Police • New Zealand Defence • New Zealand Security Intelligence Service • Parliamentary Counsel Office • Crown Agents (except New Zealand Blood Service and District Health Boards) 	<ul style="list-style-type: none"> • Public Service departments • New Zealand Police • New Zealand Defence • New Zealand Security Intelligence Service • Parliamentary Counsel Office • District Health Boards (effective 1/7/2015) • Earthquake Commission • Housing New Zealand Corporation • New Zealand Qualifications Authority • Tertiary Education Commission • New Zealand Transport Authority • Accident Compensation Corporation • New Zealand Trade and Enterprise. 	<ul style="list-style-type: none"> • Public Service departments • New Zealand Police • New Zealand Defence • Crown Agents • Autonomous Crown Entities • Independent Crown Entities • Crown Entity Companies • Public Finance Act Schedule 4A companies
Voluntary	<ul style="list-style-type: none"> • Other State Services agencies • Wider State Sector and Public Sector agencies 	<ul style="list-style-type: none"> • Other State Services agencies • Wider State Sector and Public Sector agencies 	<ul style="list-style-type: none"> • Other State Services agencies • Wider State Sector and Public Sector agencies

[MORE INFORMATION ON CC-ICT CONTRACTS](#)

[Open +](#)

Rule 58

Web standards

1. If a Public Service department, New Zealand Police or New Zealand Defence Force outsources web development work, it must include, in its Notice of Procurement, a pre-condition for the work to comply with the mandatory requirements in the latest version of the New Zealand Government web standards.
2. Other agencies should include this pre-condition in their Notices of Procurement for web development work.

For further information on web standards visit: webtoolkit.govt.nz

Rule 59

Approved Government Model Templates

1. The Procurement Functional Leader issues Approved Government Model Templates (A-GMTs) from time to time. Agencies must operationalise these templates in their procurement activities, regardless of whether or not the Rules apply to the procurement.

[MORE INFORMATION ON APPROVED GOVERNMENT MODEL TEMPLATES](#)

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Rule 60

Geospatial information and services

1. If an agency intends to procure geospatial information or services, it must consult with the New Zealand Geospatial Office (NZGO) before approaching the market or publishing a Notice of Procurement.

[MORE INFORMATION](#)

[Open +](#)

Rule 61

Intellectual Property

1. If an agency's procurement of goods, services or works involves the supplier creating new Intellectual Property, the agency should set out, in its Notice of Procurement, its intentions regarding ownership, licensing, and future commercialisation of that Intellectual Property.
2. 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. The guidelines are:
 - a. for procurement of goods, services or works in the context of Information and Communication Technologies (ICT): [Guidelines for Treatment of Intellectual Property Rights in ICT Contracts](#), released by the State Services Commission, maintained by the Department of Internal Affairs.
 - b. for procurement of goods, services or works in the context of Public Service research contracts: [Cabinet guidelines for intellectual property from Public Service research contracts \[40KB PDF\]](#), released by the (former) Ministry of Research, Science and Technology.

[MORE INFORMATION ON INTELLECTUAL PROPERTY](#)

[Open +](#)

Rule 62

Public Private Partnerships

1. Agencies considering Public Private Partnership (PPP) procurement must:
 - a. consult with the Treasury PPP Team early in the development of the project's business case;
 - b. follow relevant Treasury guidance and instructions;
 - c. involve the Treasury PPP Team in the economic and financial assessment and advice to Ministers;
 - d. invite the Treasury PPP Team to participate in relevant project steering and working groups, and in the selection panels for all key PPP advisor appointments;
 - e. use the Treasury's Standard Form PPP Project Agreement as the basis for any contract and consult with the Treasury PPP Team over any proposed modifications.These are available at www.treasury.govt.nz/ppp

[MORE INFORMATION ON PUBLIC PRIVATE PARTNERSHIPS](#)

[Open +](#)

Rule 63

Business cases and investments decisions

1. Cabinet approval is required for certain types of expenditure, lease or asset disposal proposals from departments, Crown Agents and other Crown Entities. If an agency wants to undertake a project which meets certain criteria, it must consult with the Treasury and the project proposal will be assessed and reviewed against the Treasury's published business case standard.
2. The criteria for determining which investment decisions require Cabinet approval are available at: www.treasury.govt.nz/publications/guidance/mgmt/majorprojects

Rule 64

Investment reviews

1. Depending on the size, scale and type of investment, corporate centre reviews may be required for significant projects and programmes that involve procurement. The criteria for determining when these reviews are required are on [Major Projects](#) page of the Treasury website.
2. If the review criteria are met, an agency must complete a risk profile assessment for the project or programme, and submit it to the Treasury, which will determine whether corporate centre reviews are required.

[MORE INFORMATION ON THE CORPORATE CENTRE](#)

[Open +](#)

Rule 65

Timber and wood products

1. Agencies must apply the [New Zealand timber and wood products procurement policy \[48KB PDF\]](#) when procuring timber and wood products.

[MORE INFORMATION ON THE TIMBER AND WOOD PRODUCTS POLICY](#)

[Open +](#)

Rule 66

Employee transfer costs

1. In certain situations, an agency must disclose the costs relating to the transfer of employees due to restructuring. The circumstances are contained in the [Employment Relations Act 2000](#) (the Act), Part 6A and Schedule 1A. Disclosure of costs must be made available to prospective suppliers (new

- employers) on request when:
- the restructuring is the subject of a tender, and
 - the type of employees affected falls within a category listed in the Act.

[MORE INFORMATION](#)

[Open +](#)

7 - Definitions

[A](#) | [B](#) | [C](#) | [D](#) | [E](#) | [F](#) | [G](#) | [H](#) | [I](#) | [J](#) | [K](#) | [L](#) | [M](#) | [N](#) | [O](#) | [P](#) | [Q](#) | [R](#) | [S](#) | [T](#) | [U](#) | [V](#) | [W](#) | [X](#) | [Y](#) | [Z](#)

Word or phrase	Reference	Definition
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 55	A type of collaborative contract that has been approved by the Procurement Functional Leader (the Chief Executive of MBIE). AoGs are usually Panel Contracts established by MBIE or other agencies that are approved Centres of Expertise for common goods or services (eg vehicles, laptops, and recruitment services).
allowable reduction	Rules 28 and 31	An agency may reduce the minimum time period for tender response deadlines in three circumstances, namely if: <ul style="list-style-type: none"> it has listed the contract opportunity in its Annual Procurement Plan not less than 2 months and not more than 8 months before the publication of the Notice of Procurement all tender documents are made available electronically at the same time as the publication of the Notice of Procurement it accepts responses electronically. The number of business days for each allowable reduction is specified in Rule 31 .
Annual Procurement Plan (APP)	Rule 17	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.
Application to Qualify (ATQ)	Rule 53	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	Chapter 3	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 .
business activities	Rule 25	Any activity that is performed with the goal of running a business. For the private sector, these are activities associated with making a profit (eg operations, marketing, production or administration).
business case	Rules 19 and 63	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 26 to 31	Any week day 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.
clear business day	Rule 29	One full business day from 9am to 5pm.
closed competitive process	Rule 15	A tender process where an agency asks a limited number of known suppliers to tender for a contract opportunity. The contract opportunity is not openly advertised.

collusion	Rule 30	A secret agreement or cooperation between two or more parties to cheat or deceive others by illegal, fraudulent or deceitful means.
commercially sensitive information	Rule 5	Information that, if disclosed, could prejudice a supplier's commercial interests (eg trade secret, profit margin or new ideas).
commodity market	Rule 15	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 (eg the London Metal Exchange and the Chicago Board of Trade).
Common Capability contracts (CCs)	Rule 57	<p>A type of collaborative contract that has been approved by the Procurement Functional Leader.</p> <p>CCs establish various supply agreements (eg for ICT goods or services purchased across government with approved suppliers).</p> <p>CCs differ from All-of-Government and Syndicated Contracts because, in a CC:</p> <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.
competition	Rules 5, 15 and 21	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 31	<p>A type of open procurement process often used where there is no known solution in the market place. 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.</p> <p>For more information see the Guide to Competitive Dialogue [438 KB PDF].</p>
conflict of interest	Rules 15 and 54	<p>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.</p> <p>For more information see the Quick guide: Conflict of interest [300 KB PDF].</p>
Contract Award Notice	Rules 15, 45 and 54	A notice containing the information listed in Rule 45.2.
contract opportunity	Rules 15, 21, 25, 28, 32, 33, 40, 41, 52, 53 and 54	An opportunity for suppliers to bid for a contract for goods, services or works.
Crown Research Institutes	Rule 6	Companies established under the Crown Research Institutes Act 1992. A full list of Crown Research Institutes on the State Services Commission website.
deadline for responses	Rule 33	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	Rule 15	A tender process where the agency asks a single supplier to tender for 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	Rule 42	An online reverse auction that takes place in real time. It gives suppliers the opportunity to bid

		against each other to improve their offers.
education services	Rule 13	<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.
evaluation criteria	Rules 35 and 42	The criteria that are used to evaluate responses. These include measures to assess the extent to which competing responses meet requirements and expectations (eg criteria to short list suppliers following a Registration of Interest or criteria to rank responses in awarding the contract).
exemption from open advertising	Rule 15	The recognised circumstances (eg a procurement in response to an emergency) where an agency does not need to openly advertise the contract opportunity.
framework agreement	Rule 54	<p>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.</p> <p>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.</p>
Functional Leader	Rule 57	A government Chief Executive appointed by the Cabinet to drive performance across the State Services in a particular area, eg procurement, ICT and property.
GETS		An acronym for Government Electronic Tenders Service. GETS is a website managed by the New Zealand Government. 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.
GETS listing	Rule 33	<p>The summary of a contract opportunity that is published on GETS. It includes key information such as the:</p> <ul style="list-style-type: none"> • name of the buying agency • approach to market process that will be used (eg Request for Proposals) • deadline for responses • address for any enquiries.
goods	Rules 7 and 8 , and throughout subsequent rules	Items which are capable of being owned. This includes physical goods and personal property as well as intangible property such as Intellectual Property (eg a software product).
government's central financial control functions	Rule 13	<p>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.</p> <p>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 the Treasury.</p> <p>Ordinary commercial banking and financial services are not covered by this definition and are not valid opt-out procurements.</p>
grant	Rules 12 and 13	Financial assistance in the form of money paid by the government to an eligible organisation with no expectation

		<p>that the funds will be paid back.</p> <p>It can be either:</p> <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.
GST	Rule 9	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		A generic name for a range of New Zealand government good procurement practice guides, tools and templates.
health services	Rule 13	<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 hospital 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, ie services in the field of physiotherapy, ergotherapy, occupational therapy, speech therapy, homeopathy, acupuncture, nutrition instructions, etc.
Invitation to Participate (ITP)	Rule 31	An invitation to suppliers, published on GETS, to apply to be included in a Competitive Dialogue process.
Invitation to Qualify (ITQ)	Rule 53	An invitation to suppliers, published on GETS, to apply to be included in an agency's Pre-Qualified Supplier List.
Invitation to Register (ITR)	Rule 52	An invitation to suppliers, published on GETS, to register their interest in supplying a specific type of good or service. Suppliers who register their interest are included in a Registered Suppliers List.
maximum total estimated value	Rule 9	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	Rules 27 and 31	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	Rule 31	A procurement process with more than one step, (eg a Registration of Interest followed by a Request for Proposals).
new construction works	Rule 8	<p>In the context of the Rules, the term relates to goods and services associated with delivering new civil or building construction works. This means buildings, roads, bridges and dams. It covers new build and replacement of an existing construction. 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

		<ul style="list-style-type: none"> • construction work for buildings, residential and non-residential • construction work for civil engineering • assembly and erection of prefabricated constructions. ie 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 • installation work such as heating, ventilation and air conditioning work, water plumbing and drain laying work, gas fitting construction work, electrical work, insulation work (eg electrical wiring, water, heat, sound), fencing and railing construction work, other installation work (eg installation of lifts and escalators and moving sidewalk), fire escape equipment and construction work (eg staircases) • building completion and finishing or 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 (eg 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.
Notice of Procurement	Rules 34 and 35	The document published on GETS that advertises a new contract opportunity (eg a Registration of Interest or a Request for Tender).
Official Information Act 1982	Rule 5	A New Zealand law that sets out the information that government must make freely available to the New Zealand public.
offset	Rule 3	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 by requiring or encouraging suppliers to purchase national products.
open advertising	Rule 14	Publishing a contract opportunity on GETS and inviting all interested domestic and international suppliers to participate in the procurement.
opt-out procurements	Rule 13	Specific types of procurement activities where agencies can choose to opt out of applying most of the Rules.
Panel Contract	Rule 35	A type of framework agreement that governs the relationship between the agency and each Panel Supplier. It sets out the terms and conditions (including pricing) 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	Rule 54	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 54	A supplier included in a Panel of Suppliers.
pre-conditions	Rule 25	A condition that a supplier must meet to be considered for a particular contract opportunity.
pre-qualified supplier	Rule 53	A supplier included in a Pre-qualified Suppliers List.
Pre-qualified Suppliers List	Rule 53	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	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		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	Rules 55, 56, 57 and 59	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 plan	Rule 17	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.
prototype	Rule 15	An early sample, model or pilot study used to test a concept or process.
Public Sector	Rule 6	This includes agencies in the: <ul style="list-style-type: none"> • Public Service (departments and ministries) • the wider State Services (eg 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 (eg 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 on New Zealand's State sector organisations page of the State Services Commission website.</p>
Public Service	Rule 6	The New Zealand government public service departments and ministries listed in Schedule 1 of the State Sector Act 1988. <p>A list of these agencies is available on New Zealand's State sector organisations page of the State Services Commission website.</p>
Public Private Partnerships (PPPs)	Rule 62	A long-term contract for the delivery of a service, involving the building a new asset or infrastructure (eg 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.
refurbishment works	Rule 7	In the context of the Rules, the term relates to goods or 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. <p>Refurbishment works does not include replacing a construction. That is deemed to be new construction works.</p>
registered supplier	Rule 52	A supplier included in a Registered Suppliers List.

Registered Suppliers List	Rules 8, 51 and 52	A list of suppliers who have registered an interest in supplying specific types of goods, services or works to an agency.
Registration of interest (ROI)	Rule 31	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 multi-step tender process.
Request for information (RFI)	Rule 34	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. <p>It is not a type of Notice of Procurement. It must not be used to select or shortlist suppliers.</p>
Request for proposal (RFP)	Rule 31	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. <p>An agency may be open to innovative ways of achieving the outcome.</p>
Request for quote (RFQ)	Rule 31	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)	Rule 31	A formal request from an agency asking for offers from potential suppliers to supply clearly defined goods or services or works. <p>Often there are highly-technical requirements and a prescriptive solution.</p>
response	Rules 28 and 33	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		A short name for the Government Rules of Sourcing, which are the Rules 1 to 66 and the definitions on this page. Information in boxes and diagrams accompanying the Rules are not part of the Rules but may be used to help with understanding the Rules.
secondary procurement	Rules 15, 45 and 54	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	Rule 7	Acts or work performed for another party, eg accounting, legal services, cleaning, consultancy, training, medical treatment, or transportation. <p>Sometimes services are difficult to identify because they are closely associated with a good (eg where medicine is administered as a result of a diagnosis). No transfer of possession or ownership takes place when services are sold, and they:</p> <ul style="list-style-type: none"> • cannot be stored or transported • are instantly perishable • only exist at the time they are provided.
significant procurement plans	Rule 19	Procurement plans for any procurement that meets one or more of the criteria in Rule 19 .
sourcing	Context	The parts of the procurement lifecycle that relate to planning, market research, approaching the market, evaluating responses, negotiating and contracting.
State Sector	Rule 6	This includes:

		<ul style="list-style-type: none"> the Public Service (departments and ministries) the wider State Services (eg Crown Entities, Crown Research Institutes, entities listed in Schedules 4 and 4A of the Public Finance Act 1989, and School Boards of Trustees) 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 on New Zealand's State sector organisations page of the State Services Commission website.</p>
State Services	Rule 6	<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 on New Zealand's State sector organisations page of the State Services Commission website.</p>
sufficient time	Rule 26	<p>The time a government agency must give suppliers 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		<p>A person, business, company or organisation that supplies or can supply goods or services or works to an agency.</p>
supplier debrief	Rule 46	<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 Contracts	Rule 56	<p>A type of collaborative contract that has been approved by the Procurement Functional Leader.</p> <p>Syndicated Contracts typically involve 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.</p> <p>If the contract is limited to a group of named agencies, it is a Closed Syndicated Contract.</p>
technical specifications	Rule 24	<p>A tendering 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	Rule 33	<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 on the GETS website.</p>
The Crown	Rule 62 information box	<p>The short name for "the Sovereign in Right of New Zealand" as the bearer of government rights, powers, privileges and liabilities in New Zealand.</p>
third party agent	Rule 20	<p>A party who is contracted to manage a procurement process on behalf of an agency. The agency remains responsible and accountable for</p>

		ensuring that the procurement complies with the Rules of Sourcing.
total cost of ownership (TCO)	Chapter 3	A 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 (eg installation and training, operating and maintenance costs, repairs, decommissioning and cost 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	Rule 15	An approach initiated by a supplier proposing a unique solution which is not available in the market place. For more information, see the Guide to unsolicited unique proposals [307 KB PDF] .
value for money	Chapter 3 Rules 4, 13 and 43	Value for money is not always the cheapest price. It is the best available outcome for the money spent. It means using resources effectively, economically, and without waste, and taking into account: <ul style="list-style-type: none"> the total costs and benefits of a procurement (total cost of ownership), and the procurement's contribution to the results you are trying to achieve. The principle of Value for Money when procuring goods, services or works does not necessarily 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). Selecting the most appropriate procurement process that is proportionate to the value, risk and complexity of the procurement will help achieve value for money.
value threshold	Rule 7, 8 and 9	The minimum NZ\$ value at which the Rules apply to a particular procurement type. It excludes GST.
welfare services	Rule 13	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, handicapped, children and other social assistance clients compulsory social security services (administration of benefits).
Whole of Government Direction	Rule 6	The Whole of Government Direction Regarding Procurement Functional Leadership given by the Ministers of Finance and State Services, 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 on the Public Sector Agencies page. The direction is available on the Directions to support a whole of government approach page of the State Services Commission website.
works	Rules 7 and 8	A generic term which covers new construction works for a new build or refurbishment works to an existing construction.
WTO Agreement on Government Procurement	Introduction and Rule 6	Also known as the GPA. A free trade agreement established by the World Trade Organisation (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. The main aim of the GPA is to improve access to government procurement markets and remove barriers to international trade.

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Third Edition Changes

Additional information has been included in the [why have the rules](#) page to assist agencies with interpreting and applying the Rules.

- [Rule 6 Who the Rules apply to](#) - The list of mandated agencies has been updated to reflect the Whole of Government Direction on Procurement

- Functional Leadership and New Zealand's commitments to the World Trade Organization Agreement on Government Procurement.
- [Rule 13 Opt-out procurements](#) - This rule allows agencies to opt out of applying the Rules in certain situations, such as making conditional grants or providing public health, education and welfare services. Changes clarify that some rules still apply when an agency is doing an opt-out procurement. These include protecting suppliers' confidential information, debriefing unsuccessful suppliers, and following mandatory policies and processes where applicable, for example, the Treasury's investment review processes and participation on collaborative contracts.
- [Rule 13.3.a Opt-out for procurement between government agencies](#) - Agencies that are mandated to apply or have regard to the Rules by the Whole of Government Direction on Functional Leadership have been added to the list of agencies that can opt out of the Rules when sourcing goods and services from each other.
- [Rule 16 Strategic Procurement Outlooks](#) - Agencies will no longer be required to submit a Strategic Procurement Outlook (SPO) to MBIE. Feedback from suppliers was that the most of the SPO information was not useful so removing the requirement will reduce unnecessary red tape for agencies. Annual Procurement Plans will now include a brief summary of each agency's main procurement needs.
- [Rule 18 Extended Procurement Forecasts](#) - The forecast cycle for EPFs has been changed from five years to four years so that it aligns with government's four-year planning cycle.
- [Rule 35 Content of Notice of Procurement](#) - Revised supplementary information about this rule makes it clear that notices of procurement must include any weightings an agency intends to apply to the evaluation criteria. This information helps suppliers to prepare more focused responses to agencies' tenders.
- [Rule 45 Contract Award Notices](#) - Changes clarify that agencies will not need to publish contract award notices when they are opting out of open advertising under [Rule 13](#) or doing secondary procurement eg under an All of Government Contract or established panel of suppliers.
- [Rule 57 Common Capability Contracts](#) - Changes clarify that only Functional Leaders or agencies approved and overseen by a Functional Leader, can establish this type of collaborative contract.
- [Rule 58 Web standards](#) - Changes reflect the relevant Cabinet direction, which requires the Public Service departments and four non-Public Service departments to make New Zealand Government web standards a pre-condition when outsourcing web development. Other agencies are encouraged to do so.
- [Rule 62 Public Private Partnerships](#), [Rule 63 Business cases and investment decisions](#) and [Rule 64 Investment Reviews](#) - These rules have been renamed and / or reworded so that they are a high level introduction that will not need to be changed if the related processes change in the future.

Other changes appearing in the third edition of the Rules are minor updates, corrections or additional guidance on applying specific rules.

- [Review of Government Rules of Sourcing - Changes in Third Edition \[722 KB PDF\]](#)