

## FACT SHEET

# Rule 12A – Procurement response measures

Recently, New Zealand's response to COVID-19 has highlighted opportunities to improve the standards and consistency of government procurement practices.

Cabinet has agreed to strengthen the Procurement Functional Lead (PFL) mandate by introducing changes to the Government Procurement Rules.

The new Rule 12A enables the PFL to respond to a policy priority, emergency or crisis by declaring appropriate procurement response measures (PRM) to achieve additional outcomes and drive positive change across the government procurement system.

### **Rule 12A - Procurement response measures**

1. From time to time, the Procurement Functional Leader may declare national or regional or sectoral procurement response measures consistent with New Zealand's international commitments on government procurement, including measures in response to a social, economic or environmental crisis that follows an emergency period or that is not otherwise an emergency situation as defined under Rule 14.9.a.
2. For the purposes of the Rules, such measures apply in accordance with their terms.

## What is the Rule for?

By declaring a PRM, the PFL can mandate and deliver targeted interventions at a national, sectoral or regional level. The PRMs may be applicable to all or a range of mandated agencies and their procurement activities and would be put in place for a set period of time to enable government procurement to support defined objectives.

PRMs cannot override legal obligations and must be consistent with New Zealand's international agreements on government procurement.

PRMs enable the PFL to:

- drive system-wide initiatives and improvements
- undertake targeted interventions and remedial actions
- provide added responsiveness to circumstances
- ensure government procurement plays its part in the economic and social recovery and growth of New Zealand.

## When can the Rule be applied?

To deliver benefits to the NZ Government procurement system.

**Example:** A new data system that streamlines the advertising and tendering process for large government contracts has been identified as a way to create real value and benefits for the New Zealand government. It would place the tendering, evaluation and award of government contracts online. In order to share these benefits and provide a consolidated and streamlined transition, the PFL declares a PRM, requiring all mandated agencies to transition to this new data system by a given timeframe, with NZGP support through development of guidance, advice and workshops.

To promote government policy or strategy through procurement.

**Example:** Decreasing and eventually eradicating the gender pay gap is a high-profile goal set by the current government. In order to support the policy work being done by the Ministry for Women to achieve this goal, the Minister for Economic Development directs the PFL to declare a PRM, whereby government agencies should apply a gender lens to their procurement activity. In order to ensure a consistent and pragmatic approach to the implementation of this policy that leads to tangible results, the PFL declares a response measure that directs agencies to consider specific clauses regarding maternity leave and equal pay provisions within all forthcoming government procurement contracts.

To undertake targeted interventions and remedial actions.

**Example:** An agency has drafted a procurement plan for the purchase and implementation of new software, which would streamline the agency's work programmes and create real value. When reviewing the plan, the PFL discovers that it is written in a way that would unintentionally exclude small and medium-sized enterprises. The PFL undertakes a targeted intervention by assigning a subject matter expert to help the agency consider an approach that would allow for a more inclusive and user friendly procurement plan.

To support crisis or emergency relief and recovery.

**Example:** There is a drought in the South Canterbury region and the District Council has declared a state of emergency. Agencies in the region are having significant issues sourcing water-related emergency relief. To mitigate the risk and provide a consolidated response, the PFL assesses the situation and declares a regional PRM. An emergency response team is formed with specialists in water scarcity and procurement specialists who can procure emergency-related water relief to the region. The response is centralised by the PFL to streamline the procurement of water-related equipment and technologies. Through the centralised procurement, the PFL takes on the risk, allowing agencies to work through the immediate recovery and crisis management solutions.

## Factors considered in declaring a PRM

Prior to declaring a PRM, the PFL must take into account the following key considerations:

- can the situation be resolved without declaring the PRM
- how long will the PRM be in place
- what kind of impact(s) will the PRM have on agencies, both long-term and short-term
- what are the potential risks of not declaring the PRM, and the anticipated risks of declaring it

- what are the potential financial consequences of the PRM
- how can the effectiveness of the PRM be monitored and assessed
- how many agencies will be affected by the PRM, and to what degree
- will the PRM impact the supply market
- is the PRM going to impact on Māori and mana whenua cultural values and their relationship to land, water and taonga
- does the PRM have community, agency or sectoral support
- what kind of support can the PFL provide in order to successfully deliver and monitor the proposed PRM.

## Have your say

We would like to hear your thoughts on the opportunities, benefits and other impacts for your agency of having a PFL that can make use of procurement response measures under Rule 12A.

Submissions close on 23 November 2020.

If you have any questions please contact [NZGPPpolicy@mbie.govt.nz](mailto:NZGPPpolicy@mbie.govt.nz).

## How to make a submission

You can make your submission by:

- [completing a survey](#) or
- emailing feedback to [NZGPPpolicy@mbie.govt.nz](mailto:NZGPPpolicy@mbie.govt.nz)