

FACT SHEET

Rule 18A – Employment outcomes

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

As part of a wider Government employment strategy to support New Zealanders post-COVID 19, Cabinet has agreed to a new Government Procurement Rule for quality employment outcomes, to address the projected increase in unemployment due to the economic effects of COVID-19.

The new employment Rule requires mandated agencies to consider quality employment opportunities for New Zealanders. There is a particular focus on traditionally marginalised groups such as Māori and Pacific peoples, women, people with a disability and youth. The Ministry of Business, Innovation and Employment (MBIE) will develop guidance to support the implementation of the Rule and around what is meant by quality employment outcomes.

Rule 18A – Employment outcomes

When procuring goods, services or works, agencies must:

- a. Consider how they can create quality employment opportunities for New Zealanders, particularly displaced workers and groups with traditionally high rates of unemployment or low labour force participation (specifically women, Māori, Pacific peoples, disabled people and youth).
- b. Have regard to *guidance* published by MBIE on how to create quality employment opportunities for New Zealanders through government procurement activity.
- c. Conduct sufficient monitoring of government contracts to ensure that commitments relating to employment opportunities for New Zealanders made in contracts are delivered and reported on.

What is the Rule for?

The purpose of this Rule is to ensure employment outcomes are considered as part of every procurement process, to create and support quality employment opportunities for New Zealanders.

The Rule will help ensure that government procurement continues to support the Government's broader economic and social objectives and outcomes. The employment outcomes Rule builds upon and compliments the existing broader outcomes framework and Rules, eg Rule 17 – Increase access for New Zealand businesses and Rule 18 – Construction skills and training. The new Rule makes it explicit that employment outcomes are a consideration of all types of procurement.

What procurement activities does the Rule apply to?

The Rule applies to all government procurement tenders and contracts that meet the thresholds of the Rules, i.e. \$100,000 or more for goods and services contracts, and \$9 million for construction contracts.

What is meant by quality employment?

Further guidance will be developed in consultation with stakeholders on what is meant by quality employment in different circumstances. Some factors to consider are the pay and conditions of the workers, what training or opportunities for skills development are available, or what each worker will be contributing to the delivery of the contract.

It is important that this Rule does not lead to unintended consequences, such as ‘make-work’, low value employment or paper positions for people in order for some suppliers to win contracts. To avoid this, agencies will need to understand the labour force involved and what quality means in the context of the procurement. Agencies will need to be clear how they will weight this requirement and consider it against other outcomes and factors such as cost. Early engagement with suppliers will be key.

Example: As part of the RFX phase, an agency includes quality employment as an outcome. By doing so, the agency can initiate early discussions with suppliers about how this outcome can be incorporated into the contract and achieved. This could include suppliers providing information about the pay and conditions they provide for their workers and opportunities for skills development that may arise. Suppliers may also explain how they will create opportunities for traditionally disadvantaged groups, such as Māori, Pacific peoples, women and those with disabilities.

What is more important, creating or preserving jobs?

Both are equally important. The purpose of this Rule is to ensure employment outcomes for New Zealanders is considered as part of every procurement process. It may be that a winning or keeping government procurement contract means a particular business can keep its current staff rather than letting some staff go. However, this may have to be weighed up against another business that may provide opportunities for training or more employment opportunities for women or Māori and Pacific peoples.

What about international suppliers and free trade obligations?

The new Rule does not require agencies to only engage with New Zealand businesses or discriminate against international businesses competing for government contracts. International businesses can still compete for government contracts, they only have to show that they are also creating employment outcomes for New Zealanders.

Example: A number of domestic and international firms are competing for a large infrastructure project. In order to be competitive, the international firms provide details about how they will employ local workers in the community where the project is taking place, providing them with skills training and will involve multiple New Zealand businesses in the supply chain. In this way they demonstrate increasing access for New Zealand businesses and quality employment outcomes for New Zealanders.

What limitations are there to the rule?

There may be circumstances where applying employment outcomes to a procurement may not be practicable, e.g. procurement of specialist defence equipment. For these reasons, the Rule is flexible and only requires agencies to consider quality employment outcomes as part of their procurement and be open to identifying opportunities to create employment opportunities.

Example: The procurement of a specialist piece of equipment that can only be manufactured off-shore and delivered to New Zealand. However, there may still be opportunities for New Zealand workers to be trained in the operation or maintenance of the equipment, providing long-term employment and skills training.

Have your say

We would like to hear your thoughts on the opportunities, benefits and other impacts for your agency of implementing the Government Procurement Rule 18A – Employment outcomes.

Submissions close on 23 November 2020.

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

How to make a submission

You can make your submission by:

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