

# New Government procurement rules

An overview of the 4th edition rules for public agencies

August 2019



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# Government procurement rules: 4th edition

These rules are the Government's standards of good procurement practice. The 4th edition sets out Government's expectations for how procurement will be leveraged to achieve broader outcomes.

- The Government would like to contribute to the wellbeing of New Zealanders by ensuring public sector spend delivers value to the public (public value) and promotes inclusivity, transparency and sustainability
- The 4th edition includes 11 new rules in four main areas:
  - Procurement capability, reporting and planning
  - Targeting public value through considerations of broader outcomes
  - Changes to construction procurement
  - Removal of three outdated rules
- The Government has created a Procurement Charter and a Supplier Code of Conduct to outline expectations of agencies and suppliers
- Procurement capability through the procurement capability index is 5% of the Government's investor confidence rating (ICR) for agencies
- The new rules come into effect on 1 October 2019 for all public service and state service 1 agencies. All agencies are expected to build the principles, charter and supplier code into their procurement projects

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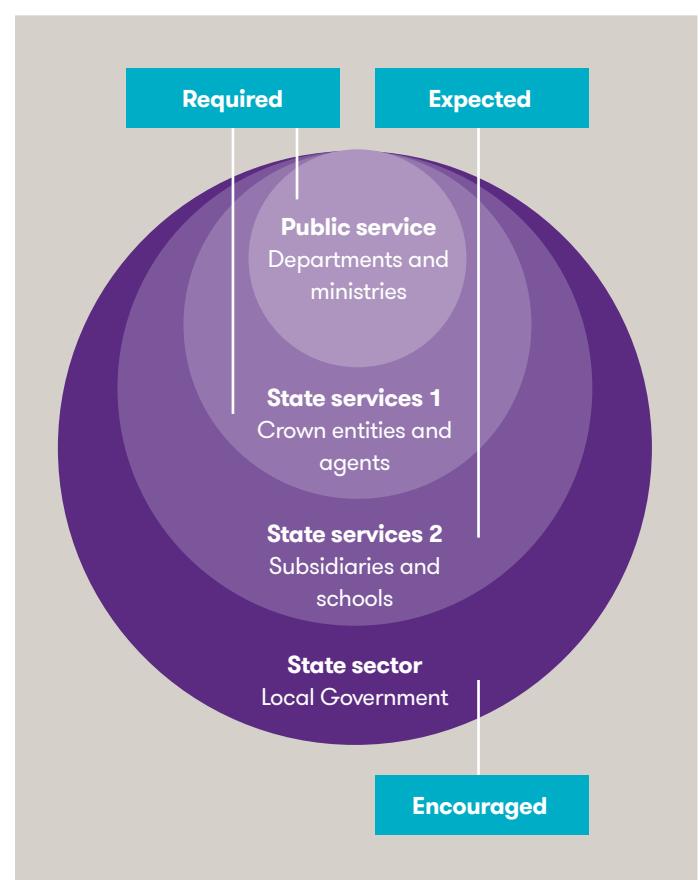
A strategic approach involves...

...undertaking adequate planning, sourcing suppliers and managing relationships to successfully deliver against public policy objectives and business needs, while delivering public value.

Source: Government procurement rules, pg4

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Who do the rules apply to?



# Key themes from the rule changes

These key themes have significant implications for agencies.



## Secondary considerations

Agencies must strike a balance between value for money and broader outcomes; this could cause confusion as how this can be achieved is likely to be situational. Agencies should clearly outline what evaluation method is, the weighting of criteria, contractual obligations and what supplier actions would result in exclusion or termination.



## Reporting and performance

Agencies must report to MBIE about their procurement capability, designated contracts, and significant service contracts. Gaps in capability, risks and issues with contracts will be more visible. Shortfalls may flow into Investor Confidence Ratings (ICR), so agencies need to be proactive.



## Designated contracts

The Government has seven designated priority areas. Agencies must use AoG contracts in these areas, conduct due diligence, and manage contracts to ensure the priority outcomes are achieved. Agencies should know and deliver on expectations for these contracts and target this standard for other major contracts.



## Implication for all agencies

Agencies must build the principles, charter and supplier code into how and what they do for sourcing. All agencies must demonstrate how the objectives of the charter drive their everyday sourcing activities and decisions.



## Monitoring and compliance

There is a greater requirement on agencies (and their suppliers) to monitor broader outcomes and issues relating to supplier conduct. Currently, few agencies are set up to do this; additional skill sets and resourcing may be required.



## Supply chain implications

The rule changes not only apply to Government providers, but to the providers' subcontractors and suppliers within New Zealand as well. The international supply chain requirements are lighter and limited to dealing with any issues that are discovered. This expectation should be communicated clearly and early to suppliers.



# Key objective: public value

Public value means using resources economically and considering the net benefits of a procurement, its contribution to specific results and broader outcomes for New Zealand.

3rd Ed: value for money	4th Ed: public value		<b>Upfront price</b>	The price paid at the sourcing of the good or service
			<b>Ongoing and end of life</b>	Lifetime costs of the goods, services and works
			<b>Effective</b>	Meets objectives of the agency/public need
			<b>Efficient</b>	Delivered in the right way, and within a reasonable time frame
			<b>Economic</b>	Market and supplier skills training and development
			<b>Social</b>	Benefits to groups like Māori, Pasifika, regional and social enterprises
			<b>Environmental</b>	Support low-emissions and low-waste economy
			<b>Cultural</b>	Partnering with Māori

Source: Government Procurement rules 4th edition, Government Rules of Sourcing 3rd edition.



# The principles of Government procurement

These remain the same, however four have been expanded to incorporate the new overarching objective of public value. All agencies must have policies in place that incorporate these principles.

1. Plan and manage for great results	2. Be fair to the suppliers	3. Get the right supplier	4. Get the best deal for everyone	5. Play by the rules
<ul style="list-style-type: none"><li>• Set up the right team</li><li>• Involve suppliers early</li><li>• Take time to understand the market and your impact on it</li><li>• Choose the right process</li><li>• Encourage e-business</li><li>• Identify what you need, plan and...</li></ul> <p><b>+</b></p> <ul style="list-style-type: none"><li>• Identify the broader outcomes that should be delivered and plan for how to achieve them</li></ul>	<ul style="list-style-type: none"><li>• Create competition and encourage capable responses</li><li>• Treat all suppliers equally</li><li>• Make it easy for all suppliers to do business</li><li>• Clearly explain how you will assess proposals</li><li>• Talk to unsuccessful suppliers so they can learn and improve</li><li>• Give New Zealand suppliers a fair opportunity to compete and ...</li></ul> <p><b>+</b></p> <ul style="list-style-type: none"><li>• Seek opportunities to involve New Zealand businesses including: Māori, Pasifika, regional businesses and social enterprises</li></ul>	<ul style="list-style-type: none"><li>• Be clear about what you need and demonstrate fairness in how you assess</li><li>• Choose the right supplier</li><li>• Build demanding, but fair and productive, relationships with suppliers</li><li>• Make it worthwhile for suppliers</li><li>• Identify relevant risks and get the right person to manage them and...</li></ul> <p><b>+</b></p> <ul style="list-style-type: none"><li>• Choose suppliers that comply with the Government's Supplier Code of Conduct</li></ul> <p>▼</p>	<ul style="list-style-type: none"><li>• Take calculated risks and reward new ideas</li><li>• Have clear performance measures</li><li>• Work together with suppliers to make ongoing improvements</li><li>• Make balanced decisions – consider social, environmental, and economic effects</li><li>• Get best value for money including whole of life costs and...</li></ul> <p><b>+</b></p> <ul style="list-style-type: none"><li>• Achieve best public value</li><li>• Consider cultural outcomes</li></ul>	<ul style="list-style-type: none"><li>• Be accountable, transparent and reasonable</li><li>• Ensure participants act responsibly, lawfully and with integrity</li><li>• Stay impartial</li><li>• Protect suppliers' commercially sensitive information and IP</li></ul>
<p>The <b>Supplier Code of Conduct</b> incorporates expectations of (see pg8):</p> <ul style="list-style-type: none"><li>• ethical behaviour</li><li>• labour and human rights</li><li>• health and safety</li><li>• environmental sustainability</li><li>• corporate social responsibility.</li></ul>				

Sources: Government Procurement rules 4th edition, Government Rules of Sourcing 3rd edition – Procurement rules, Grant Thornton summary.

# Government Procurement Charter

The charter is a new statement setting out the Government's expectations of how agencies should conduct procurement activity. All agencies must have policies in place to incorporate the charter.

	Why	How	What
<b>1 Seek opportunities to include New Zealand businesses</b>	Increase access for New Zealand businesses and grow their skills	Openly work to create opportunities for local businesses to participate in supply chains	
<b>2 Undertake initiatives to build a low emissions economy and promote greater environmental responsibility</b>	Environmental responsibility	Transitioning to a low emissions, low waste economy	
<b>3 Look for new and innovative solutions</b>	Achieve better outcomes	Give businesses the opportunity to demonstrate their expertise	Agencies must build the principles, charter and supplier code into how and what they do for sourcing.
<b>4 Engage with businesses with good employment practices</b>	Achieve integrity, transparency and accountability	Ensure compliance with employment standards and good conduct	All agencies must demonstrate how the objectives of the charter drive their everyday sourcing activities and decisions
<b>5 Promote inclusive economic development within New Zealand</b>	Promote inclusive economic development within New Zealand	Engage with Māori, Pasifika and regional businesses and social enterprises	
<b>6 Manage risk appropriately</b>	Reduce risk	Responsibility for managing risks should be with the party best placed to manage it	
<b>7 Encourage collaboration for collective impact</b>	Removing siloed views and approaches to get better collective outcomes	Collaboration across agencies, businesses and other organisations	

Source: Government Procurement rules 4th edition – Procurement Charter, Grant Thornton insights.



# The Supplier Code of Conduct

The Government has formalised a Supplier Code of Conduct for all suppliers. It covers five key areas that all agencies must implement with suppliers, effective immediately.

- Suppliers are often an extension of an agency's business, so the same high standards for agencies are expected of suppliers and their subcontractors
- All agencies must apply the code, but agencies can implement it in a way that is appropriate to their circumstances. Agencies may continue to use their own code of conduct or require their suppliers to commit to the Government supplier code
- An agency may exclude a supplier from participating in a contract opportunity if there is evidence of non-compliance to the Code
- Agencies may request that their suppliers provide them with evidence of their compliance with this Code within their New Zealand supply chain. Non-compliance may be grounds for termination, depending on the situation and contractual terms. It will be up to the agency to determine how they will enforce the expectations in this code
- The code is intended for full New Zealand supply chains. However, suppliers are expected to monitor human rights and take reasonable steps to resolve any breaches that come to their attention in their international supply chains

Sources: Government Procurement Supplier Code of Conduct, Procurement.govt.nz guidance, Grant Thornton summary.

## The five elements of code

Expected	Ethical behaviour	Labour and human rights
Encouraged	Health, safety and security	Environmental sustainability
	Corporate social responsibility	



# Procurement specialists at Grant Thornton

Contact us for our detailed guide to the rule changes or to discuss what these changes mean for you.



**Michael Worth**

**Partner, Operational Advisory**

**M** +64 21 623 944

**E** michael.worth@nz.gt.com



**Elisha Nuttall**

**Manager, Operational Advisory**

**M** +64 27 201 7398

**E** elisha.nuttall@nz.gt.com

Michael leads Grant Thornton New Zealand's procurement offering and has advised a number of agencies about procurement best practice and Government procurement rules from strategy through to implementation.

Elisha specialises in helping organisations achieve value through operational decisions. He has assisted several Government agencies achieve more strategic value from procurement activity.



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**Auckland**

L4, Grant Thornton House  
152 Fanshawe Street  
Auckland 1140  
T +64 9 308 2570  
F +64 9 309 4892  
E [enquiries@nz.gt.com](mailto:enquiries@nz.gt.com)

**Wellington**

L15, Grant Thornton House  
215 Lambton Quay  
Wellington 6143  
T +64 4 474 8500  
F +64 4 474 8509  
E [enquiries@nz.gt.com](mailto:enquiries@nz.gt.com)

**Christchurch**

L3, Grant Thornton House  
134 Oxford Terrace  
Christchurch 8140  
T +64 3 379 9580  
F +64 3 366 3720  
E [enquiries@nz.gt.com](mailto:enquiries@nz.gt.com)



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