

Government Rules of Sourcing



Ministry of Business,
Innovation & Employment



The Construction Clients' Group Wellington

Shayne Gray, September 2013



Introduction

What are the Rules?

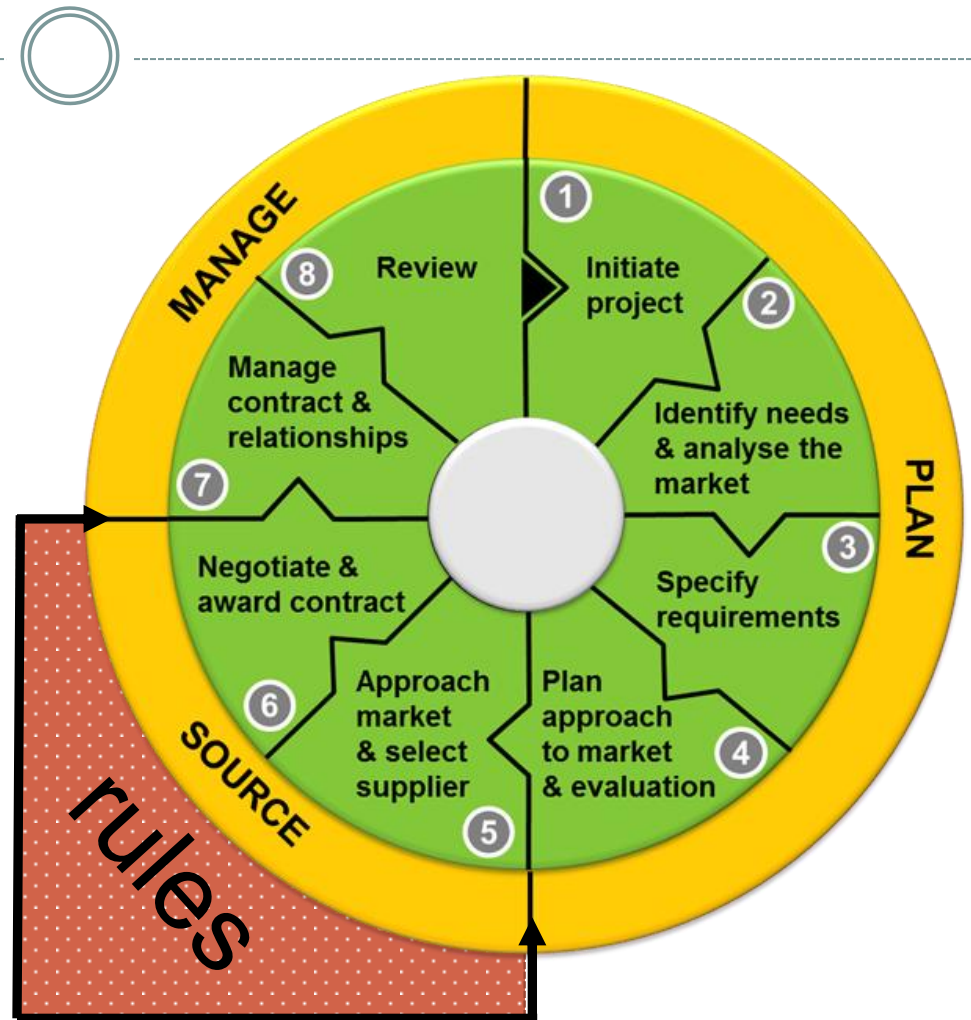


Government Rules of Sourcing

- New Rules replace the *Mandatory Rules of Procurement by Departments* (2006)
- Endorsed by Cabinet
- Come into effect 1 October 2013

What do they cover?

Focus mainly on the **sourcing** stages of the procurement lifecycle



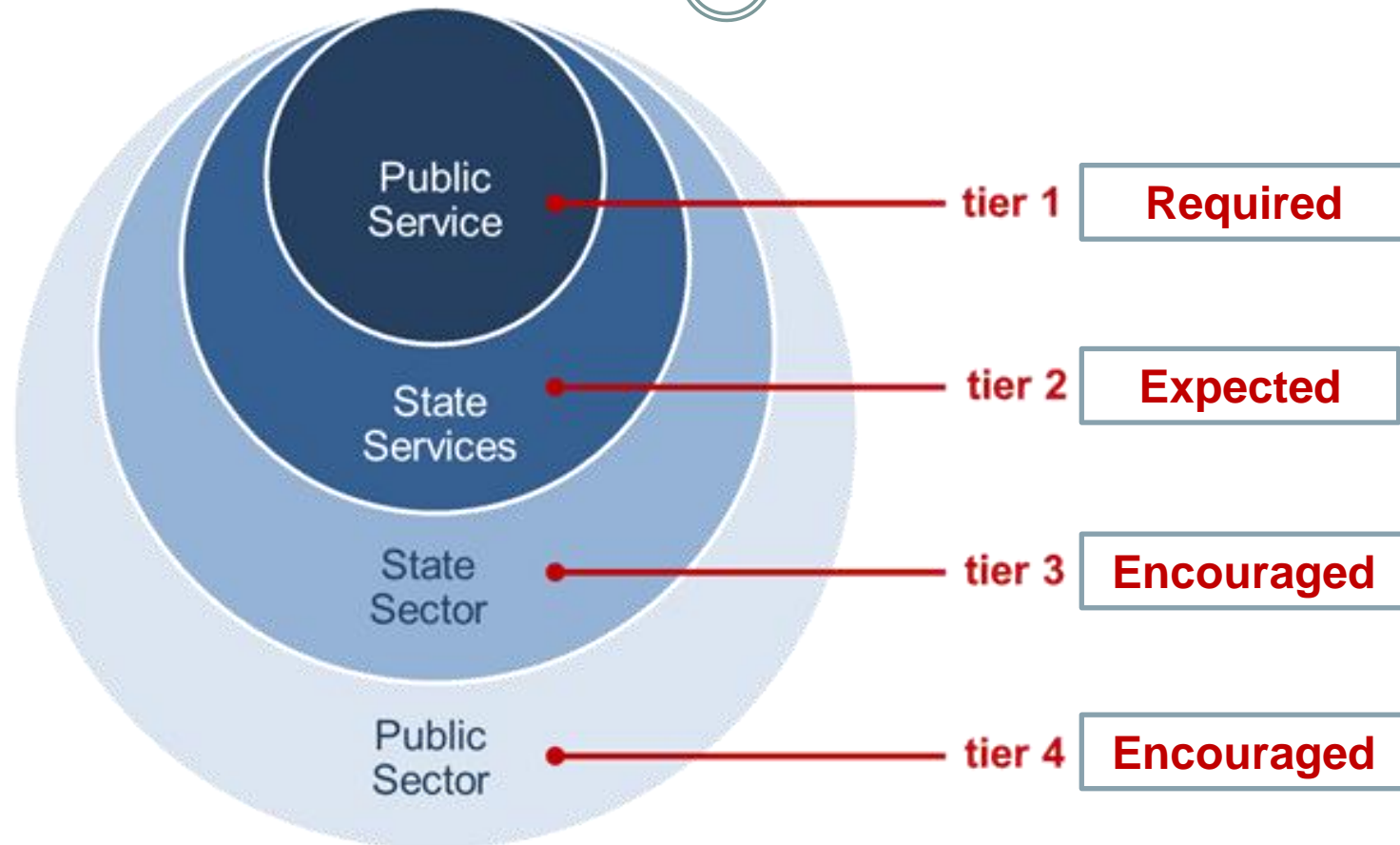
Why are the Rules important?



- Set a minimum standard for procurement
- Strengthen accountability
- More consistent process
- Encourage commercial practice
- Get more suppliers involved in delivering to government



Who do the Rules apply to?



When do they apply?



- They apply to procurement of all goods and services, including refurbishment and fit out over \$100,000
- Construction threshold is \$10 million
- But always apply the good practice standards in the Rules
- This includes going to market when the project is under the \$10 million threshold

Future application



- Likely that more agencies will be 'required' to apply the Rules
- Expanding from Public Service to some State Services agencies
- Watch this space...



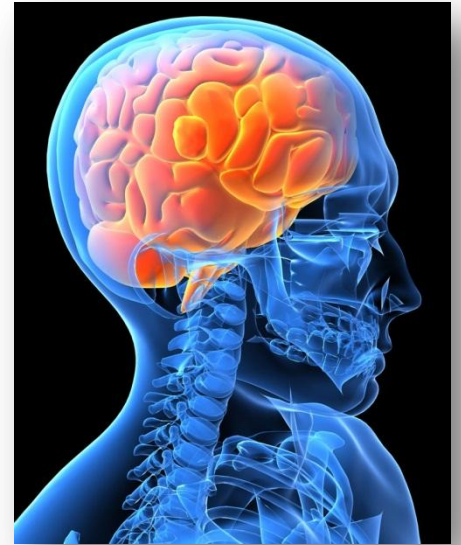


What's different?

Good process + good results



- Plain English format that is easier to understand
- Move away from strict legal interpretation
- Provide context for agencies to apply sound judgment
- Help develop capability



Rule #1 apply the Principles



Plan and manage for great results



Be fair to all suppliers



Get the right supplier



4. Get the best deal for everyone



5. Play by the rules

Non-procurement activities



The rules don't apply to activities that are not procurement

- Employing staff
- Making investments
- Gifts, donations and unconditional grants
- Statutory & Ministerial appointments
- Category 1 legal services

Opt-out procurements



Sometimes you can opt out of applying the Rules

Examples include:

- Non-contractual arrangements
- Purchasing/renting land or buildings
- Conditional grants
- Essential security interests

Basic rule: advertise



Government should openly advertise

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

Exemption from advertising



Certain procurements are exempt from advertising on GETS

- Emergency
- Following an open tender and no compliant responses received
- Additional goods / services / works
- Prototype or design contest

Uninvited proposals



Unsolicited unique proposals

- Not a “get out of jail free card”!
- Must have strong evidence to verify uniqueness
- If it is truly unique you can deal directly with the supplier without advertising the opportunity
- Still need to do due diligence, obtain proposal, assess value for money, negotiate contract etc

‘Sufficient time’

Agencies must allow suppliers *sufficient time to respond*

Take into account:

- Nature and complexity of procurement
- Level of detail you need
- Opportunities for subcontracting
- Level of risk



Minimum time period



- “10 day” rule gone
- New minimum time periods by process
- For most construction projects the minimum time will not be enough



What's new?

New requirements



- Evaluation criteria published in the tender
- Rank or weight criteria
- Provide more information on Panel Contracts
- Contract Award Notice published in 30 days
- E-auctions

Rule 35

Rule 54

Rule 45

Supporting better practice



MBIE review of significant business cases/procurement planning documentation

- Applies to contracts:
 - valued at \$5M>
 - with significant risk
 - potential for collaboration

Not required if covered by BBC or Gateway

More collaboration



Extended procurement forecasts

- 5-year outlook
- Applies to contracts:
 - valued at \$5M>
 - with significant risk
 - potential for collaboration

More collaboration



Common capability contracts

- new Government approved collaborative contract
- lead agency may charge admin fee
- a supplier may be able to purchase from this type of contract where needed to deliver solution

Other rules you need to know



References other government requirements eg:

- Web standards
- Geospatial information
- Intellectual property
- PPPs
- Better business cases (capital projects)
- Gateway assurance
- Employee transfer costs

More information



Website:

www.procurement.govt.nz

Contact us:

procurement@med.govt.nz



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Food for thought



- **Should we be doing more to meet the current challenges in the sector?**
- **What is our accountability for overall project delivery?** For example, do agencies have a role in protecting sub-contractors, or vulnerable workers - in NZ or overseas?
- **Do we have a role in containing corrupt practices worldwide?** For example, should a supplier convicted of bribing officials overseas be awarded a contract here?



Questions?