

New Zealand and EU approaches to government procurement

Government procurement chapters ensure that New Zealand businesses have the right to compete for foreign government contracts. Government markets are sizeable as well as diverse, that is to say, governments buy a wide range of goods and services. Access to these markets provides export opportunities for New Zealand businesses.

New Zealand and the European Union have agreed to seek a high-quality outcome on government procurement. The parties will build on their respective World Trade Organization Agreement on Government Procurement commitments and intend to significantly improve access to their respective public procurement markets.

Key obligations

New Zealand and the European Union would consider the main elements in a typical, high quality GP chapter in a FTA to be:

- non-discrimination and national treatment (i.e. foreign suppliers are treated the same as domestic suppliers)
- a prohibition against offsets (conditions or undertakings to develop the local economy, e.g. to buy, invest or manufacture locally, as a condition for award of contract)
- a range of transparency commitments (e.g. publication of information on the procurement regime)
- open advertising of opportunities, standards for tender notices and documentation, commitments to publish contract award information, etc.)
- mechanisms for suppliers to be able to challenge procurement proceedings and obtain redress, if successful
- market access, which consist of the combined effect of the government entities covered by the agreement, the contract value threshold at which procurements are covered, the goods and services covered and any specific exclusions.

The parties may also consider commitments relating to the accessibility and usefulness of the agreement to small and medium-sized enterprises and ways to promote sustainable development. These are emerging areas in government procurement.

As agreed with the EU in scoping discussions, a particular focus of the market access negotiations will be comprehensive and mutually acceptable coverage of procurement at all levels of government. The extent to which the EU will be seeking coverage of local authorities or state-owned enterprises remains to be seen; however, both parties recognise there are sensitivities with respect to each other's procurement environments and this will be subject to negotiation.