



NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

**Submission of the
New Zealand Council of Trade Unions
Te Kauae Kaimahi**

to the

Ministry of Business, Innovation and Employment

on

**Consultation on refreshed Government
Model Contract templates**

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Wellington

11 September 2019

- 1.1. This submission is made on behalf of the 27 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With over 310,000 members, the CTU is one of the largest democratic organisations in New Zealand.
- 1.2. The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.
- 1.3. The CTU supports the inclusion of broader outcomes in the rules for government procurement, including to support improvement in employment outcomes for New Zealanders and provided a submission on the Consultation on the Government Procurement Rules (4th edition) consultation process on 5 March 2019.
- 1.4. Following from our submission on the consultation process for the Government Procurement Rules (4th edition), the CTU now provides this response to associated consultation on refreshed Government Model Contract templates.
- 1.5. Many of the matters raised in the CTU submission on the Government Procurement Rules (4th edition) are not reflected in the generic draft clauses which have been included in the model contract templates.
- 1.6. In particular the CTU made clear that the proposed rules on broader outcomes, including employment standards, need to be strengthened to set substantive standards that are above existing legal minimum requirements. The CTU said the Rules should reference compliance not only with applicable laws but also international human (including labour) rights conventions to which New Zealand is a Party to be consistent with directive 4 of the Procurement Charter. Rules should apply both to international contractors and to international suppliers to contractors. Those holding government contracts for procurement should have a responsibility to do everything reasonably practicable to ensure compliance with the Rules in their supply chain. They should not be just complying with legal minimum requirements but demonstrating good practice in labour relations.
- 1.7. The Government Procurement Charter, number 4, states:

Engage with businesses with good employment practices. Ensure that the businesses you contract with operate with integrity, transparency and accountability,

and respect international standards relating to human and labour rights. For businesses operating within New Zealand, ensure that they comply with all New Zealand employment standards and health and safety requirements.

1.8. The 'employment standards' generic clause in the model contract templates does not meet the objective in the Charter. It states:

1.2. Employment standards: The Supplier must:

1.2.1. comply, and ensure that its Personnel comply, with their obligations under the Employment Relations Act 2000, Minimum Wage Act 1983, Wages Protection Act 1983 and the Holidays Act 2003

1.2.2. report any instances where the Supplier or its Personnel are being investigated by the Labour Inspectorate, or where the Supplier identifies it has breached any of the legislation referenced in 2.12a.

1.9. Mere compliance with current domestic labour law is a low bar and we argue is implicit. The Charter requires more than this; it requires Government to engage with businesses with good employment practices and to ensure that those businesses operate with integrity, transparency and accountability in relation to labour law.

1.10. The model clause for Health and Safety compliance is somewhat more promising because it contains articulated active duties but still does not meet the objectives of the Charter.. It states:

Health, Safety & Security: The Supplier must:

1.1.1. Consult, cooperate and coordinate with the Buyer to ensure that each Party complies with the HSW Act as it relates to the Contract

1.1.2. comply, and ensure that its Personnel comply, with their obligations under the HSW Act

1.1.3. comply with all reasonable directions of the Buyer relating to health, safety, and security, and

1.1.4. report any health and safety incident, injury or near miss, or any notice issued under the HSW Act, to the Buyer if it relates to, or affects, the Contract.

1.11. As the generic clauses in the model contract templates do not ensure active accountability for, or oversight of, compliance with minimum labour laws, let alone realising substantive rights under international labour conventions, the guidance or instructions on operationalising these clauses important and the underpinning policy rationale become even more important.

- 1.12. It is unclear how these clauses in the generic model contract templates will ensure that realisation of the stipulated broader outcome of workforce *actively improving* conditions for workers in government contracts, or meet the expectation in the Government Procurement Charter, number 4.
- 1.13. The CTU formally seeks consultation on the development on the guidance to operationalise the clauses in the model contract templates, and more broadly as to how Government objectives will be achieved under the new framework.