3. Government Procurement for Economic & Social Goals

About $30 billion a year of taxpayer and ratepayer money is used by central and local government to procure goods, services and IT. It is an important tool for economic and social development, as seen with the demise of the Hillside workshops, moves by local councils to make the living wage a term of procurement contracts, and the Workplace Health and Safety Taskforce recommendation that it be used to raise private sector standards through conditions on government contractors.

Procurement is National's preferred form of privatisation. Old style contracts for construction, professional services, medicines or equipment have been overtaken by long-term private contracts for public services: PPP prisons, toll roads, charter schools, nation-wide hospital meals, Snapper, Novopay, Mangawhai sewage scheme, and the Sky City convention centre.

Labour decided in 2006 not to join the WTO's voluntary government procurement agreement. Officials warned it was too complex and prescriptive, would reduce government's discretion and increase administrative burdens on government and suppliers. National has decided to sign up**. The TPPA chapters on procurement, state-owned enterprises and investment would go much further than the WTO.**

- The government **procurement chapter** would give firms from TPPA countries full access to NZ's procurement markets (above an economic threshold and subject to a list of covered agencies). A 'level playing field' for procurement means large transnationals could readily capture the bulk of contracts and small NZ companies stand little chance of winning tenders overseas. TPPA would embed the unbalanced effect of such rules.

- The **state enterprise chapter** would cover procurement by state entities and may promote further contracting out and intensify pressure on public sector budgets, wages and jobs. SOEs have not been defined and could include entities like the ACC, public libraries, universities, Pharmac, hospitals, Health Benefits Ltd, and the Partnership Schools Authorisation Board.

- The **investment** chapter would apply to a firm set up to bid or conduct the contract, the contract itself, a facility (toll road or PPP prison), any IP they create, government bonds, etc. Recent investment disputes have been fought over failed or contested privatised water concessions, PPP construction contracts, and even government bonds. Threats of a long and expensive investment dispute are often used to get governments to settle.

  The investment chapter would also stop governments requiring foreign investors in services from TPPA countries to use a proportion of local goods, services or technology, which helps develop startup industries and maintain jobs, as a condition of investment or receiving a subsidy. (That right has already been conceded for foreign investment in goods.)

Some TPPA parties are trying to limit coverage of the procurement chapter and get a total carveout from the investment chapter - or at least from investor-enforcement. That would require consensus. There is also a big dispute over whether this applies only to central government, or covers states, regional and local governments as well.

The TPPA could stop central and local governments using publicly funded contracts to promote economic and social objectives, and make it harder and more costly to deal with PPPs and privatised contracts when they go wrong.