



# Summary of Submissions

FOR THE PUBLIC CONSULTATION ON THE PROPOSED 5TH  
EDITION OF THE GOVERNMENT PROCUREMENT RULES

# Ministry of Business, Innovation and Employment (MBIE)

## Hīkina Whakatutuki – Lifting to make successful

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders.

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# Overview

Government spends tens of billions of dollars on goods, services and works from business and third parties to support the delivery of public services and infrastructure. It is important that procurement is done well, good outcomes are achieved, and trust in the system is maintained. Procurement can add value to an organisation beyond the acquisition of the goods and services needed to conduct business. This potential is realised through a focus on good procurement practice and robust processes.

The Government Procurement Rules (the Rules) ensure that system settings are clear and support agencies to achieve the best possible public value while also ensuring integrity, transparency and accountability throughout their procurement activities.

To ensure that the Rules continue to support these objectives, keep pace with changes to laws, regulations and government policies, it is important that they are reviewed from time to time. This review also needs to reflect changes in procurement practices and technology and reinforce developments that support the procurement system. The last review took place in 2019.

The Ministry of Business, Innovation and Employment (MBIE) conducted a review of the Rules. Specific objectives were identified at the outset of the review process:

- The Rules are accessible, easy to understand and encourage consistent application across government agencies.
- The structure, presentation and format guide good procurement practice.
- The Rules cover the procurement lifecycle and encourage modern approaches to procurement, less focus on sourcing and more on the value-add aspects of procurement.
- The Rules drive system performance.
- Outdated and unnecessary information is removed.

## Methodology

The review was informed by desk research on emerging practices and requirements in other jurisdictions (for example the new UK Procurement Act 2023 came into force in February 2025 and Australia issued guidance on the economic benefits requirements in the Commonwealth Procurement Rules in July 2024). The review also tapped into expertise and thought leadership from agencies, business leaders and across New Zealand Government Procurement.

The review team developed themes and issues to be discussed with agencies in open forums. Thematic topics included: panel contracts and secondary procurement, alternative approaches to procurement, post contract award and broader outcomes. Feedback was not confined to these topics. All agencies were invited to participate. An information package was provided in advance to those that registered. Similar virtual sessions were held with the supplier community. Sessions were also held with several special interest groups such as internal auditors and agency heads of procurement.

Information from these engagement sessions informed proposed changes to the Rules. The proposed changes underwent a public consultation process, starting on 12 March 2025 and closing

on 8 April 2025. Submitters were invited to provide feedback through the MBIE 'Have Your Say' page. Consultation materials included a copy of the proposed Rules, and a summary of the proposed changes to the Rules. Submitters could provide feedback either by making a written submission or by completing an online submission form.

Following analysis of this feedback revised Rules were submitted to Cabinet for approval. On 25 August 2025 Cabinet approved the 5<sup>th</sup> edition of the Government Procurement Rules. The Minister of Finance and Minister for the Public Service agreed to the continued application of the Rules to Crown Entities under the whole of government direction issued in 2014.

## Public consultation feedback

A total of 930 individual submissions were received. This document provides a summary of feedback received through the public consultation process. It sets out some general themes, followed by a short summary of key changes to each part of the Rules, a summary of the feedback received on these key changes and the response to the feedback.

## Overall summary

Submitters provided feedback on a wide range of topics, including matters not specifically identified in the consultation documents or covered by the Rules. Key areas of change proposed in the 5<sup>th</sup> edition of the Rules included:

- enhanced transparency
- a stronger focus on proportionality and integrity
- new disciplines on panel contracts
- the introduction of requirements on contract management
- the replacement of broader outcomes rules with a rule on economic benefit to New Zealand.

Although not universal, there was an overall positive reaction to the enhanced transparency proposed, introduction of the rule on economic benefits to New Zealand, and the revised structure to the Rules. Some concerns were expressed that additional administration will be required to achieve enhanced transparency. Many submitters requested further information and guidance to support the introduction of the 5<sup>th</sup> edition of the Rules. There was strong opposition to reporting contract awards under panel contracts above \$10,000.

## General

Below are some areas of feedback that are not specifically linked with rule changes proposed in the consultation draft.

### LIVING WAGE

While consulting on proposed 5<sup>th</sup> edition of the Rules, MBIE also consulted on a proposal to remove the separate government procurement requirement that the 34 public service departments must pay the living wage in contracts for cleaning, catering and security guard services.

A large number of submitters supported the continuation of the separate requirement to pay the living wage in these government contracts. The requirement for the 34 public service departments to pay the living wage in government contracts for cleaning, catering and security guard services has been retained as a government policy.

## **BUILDING RATING SYSTEMS**

Some submitters expressed concern about the proposal to remove the requirement to use an approved sustainable building rating system. This requirement was implemented as a Construction Procurement Guide under the Rules.

Cabinet agreed to remove the requirement to use an approved sustainable building rating system when building a new non-residential government owned building with an estimated capital value of \$9 million. Cabinet recognised that upfront costs of decarbonisation in buildings can be significant. Cabinet noted that the relative costs and benefits of decarbonisation should be considered for individual procurements to determine if investing in decarbonisation represents good public value and delivers economic benefit for New Zealand.

## **CAPABILITY AND PRACTICE**

Many submitters commented that they felt procurement capability in government agencies and the quality of procurement practice could be improved. Many requested that guidance be developed to assist agencies with the application of new Rules. There were specific requests for guidance on:

- the implementation of the economic benefit to New Zealand rule
- understanding proportionality
- setting up contract management plans and systems
- how to apply the minimum timeframe to a 2-stage procurement process
- information on new reporting requirements
- how to implement alternative procurement approaches and
- more specific examples or case studies to illustrate the application of the Rules in a real-world scenario.

Guidance on several of these topics were released at the same time as the publication of the new Rules. MBIE will develop further relevant guidance and training initiatives as the new Rules are implemented.

## **STRONGER ENFORCEMENT MEASURES**

Some submitters asked for stronger enforcement mechanisms as a response to capability and practice issues and to the lack of compliance with the Rules. Enforcement mechanisms were outside the scope of the Rules review and therefore, there is no change in this regard.

## **FORMAT AND STRUCTURE**

There were mixed views on the revised format and presentation ranging from strong endorsement of the new format to concern over the loss of explanatory notes. The revised format has been retained and further explanatory information will be added as needed over time.

## VALUE THRESHOLD FOR GOODS AND SERVICES

A number of agencies commented on the low value threshold of \$100,000 and the administrative burden they face because of it. They noted that the value threshold had not changed in many years and had not been adjusted to account for inflation or changes to the buying power of money.

This value threshold is linked to commitments made in two free trade agreements. It cannot be changed without amendment of these agreements. This is outside the scope of this Rules review.

# Feedback to changes in each part

## OVERVIEW

In this section, we set out the main proposed changes on which input was sought. We describe the key feedback received and set out the approach taken to the 5<sup>th</sup> edition of the Rules.

### PART ONE – CORE VALUES (RULES 1-5)

Rules 1-5 focus on the core values that underpin good procurement practice and processes, and exemplify the behaviours that are expected when spending public money. This starts with the requirement to adhere to the Government Procurement Principles (including the new principle on proportionality) and Government Procurement Charter.

Part one has an increased emphasis on integrity, accountability and transparency. There are stronger requirements to document decision-making, have robust processes in place, and to publish information.

#### Summary of feedback

Overall, there was support for the new proportionality principle.

The majority of submitters agreed that improved accountability and transparency in government procurement would help drive better value for public money. It was widely acknowledged that these changes were needed and welcome. However, concerns were raised about the increased administrative burden and cost to achieve that transparency, particularly in an environment where additional resourcing was unlikely.

Concern was expressed that Rule 4: Non-discrimination and offsets, and Rule 8: Economic Benefit to New Zealand, could be contradictory.

#### Approach in the 5<sup>th</sup> edition

The new provisions on transparency align with international standards and respond to some areas where New Zealand's government procurement has been subject to criticism. Rule 3 has been amended to specifically refer to transparency as well as accountability. The new proportionality principle was seen as a welcome addition and remains unchanged from the proposed version. Rule 4 and Rule 8 (wording revised) are not contradictory, and is clarified in the guidance published on implementing Rule 8.

## **PART TWO – PROCUREMENT LIFECYCLE STEPS: OVERVIEW**

Rules 6-44 focus on the procurement lifecycle – planning, approaching the market and awarding the contract (plan, source, manage). These are the operational aspects of procurement that are driven by processes and practice.

This proposed 5<sup>th</sup> edition of the Rules has more emphasis on the planning and contract management phases of procurement. This includes greater clarity around the level of planning required to ensure the right approach to market, revised disciplines on panel contracts and what is expected after the contract has been awarded. The broader outcomes rules have been replaced by Rule 8: Economic benefit to New Zealand.

## **PART TWO – PROCUREMENT LIFECYCLE STEPS: PLANNING (RULES 6-9)**

Rules 6-9 contain a new requirement to undertake appropriate planning for the size, risk and complexity of the procurement with detailed elements to be addressed when planning a good procurement. The broader outcomes rules have been replaced by Rule 8: Economic benefit to New Zealand. The new rule enables agencies to consider a wide range of matters that contribute economic benefit to New Zealand and to give economic benefit a minimum weighting of 10 per cent. There is also a new expectation to award below threshold primary procurements to capable New Zealand suppliers.

### **Summary of feedback**

Many submissions commented on the new economic benefit rule and the replacement of the broader outcomes rules. Many businesses supported the proposed economic benefit requirement and the expectation to award below threshold primary procurements to New Zealand businesses. Some submitters opposed the removal of the broader outcomes rules and saw this as a backward step for social, environmental and cultural outcomes. Some sought further clarification on the minimum 10 per cent weighting for the evaluation of the economic benefits in Rule 8, and how the rule will work in practice.

### **Approach in the 5<sup>th</sup> edition**

Given the support for the economic benefit rule, it has been retained. However, it has been re-worded to make it clear that it was only one factor to be assessed as part of the public value evaluation, enabling both domestic and foreign suppliers to participate. Agencies can choose to seek environmental, social, cultural and sustainability outcomes under the Rule based on the economic benefit that they deliver to New Zealand. Guidance is published to support agencies to implement this new rule.

## **PART TWO – PROCUREMENT LIFECYCLE STEPS: APPROACHING THE MARKET (RULES 10-27)**

Although the format of the Rules in this part is different, the substance of many of the rules has remained largely unchanged. For example, open advertising on GETS, disciplines relating to technical specifications and pre-conditions, responding to queries and making modifications. The main changes are around the minimum time frames for responding to opportunities, additional requirements around establishing and managing panel contracts (including reporting requirements) and a new requirement to conduct due diligence.



### **Summary of feedback**

There was a mixed response to the new minimum time frame of 20 clear business days for suppliers to respond to a procurement process. Agencies generally expressed that this was too long, in particular for 2-stage processes, while businesses felt it was too short.

There was considerable opposition to the requirement to publish a contract award notice for secondary procurements when the value is \$10,000 or greater due to the additional administration needed to implement this requirement. Some requested clarity on the reasoning behind a \$10,000 threshold rather than consistency with the \$100,000 value threshold. Comments on the other changes to the establishment and operation of panel contracts mostly requested clarification of some the provisions. The only comment on the new requirement to conduct due diligence was a request for some centralised conduct of due diligence, possibly carried out by MBIE.

### **Approach in the 5<sup>th</sup> edition**

The proposed \$10,000 value threshold for publishing contract award notices for secondary procurements was based on Australia's threshold for reporting on panel contract spend. This value threshold has been changed in response to feedback, from \$10,000 to \$100,000. This will be a good start to achieving transparency of spend under panel contracts.

Clarification around the new panel contract requirements (such as what is the 'Panel Guide' and what minimum time periods are required for secondary procurement) will be addressed in guidance rather than further changes to the rule itself.

The request for centralised due diligence has not been actioned. This initiative is outside the scope of this rules review.

## **PART TWO – PROCUREMENT LIFECYCLE STEPS: AWARDING THE CONTRACT (RULES 28-36)**

This section covers awarding the contract and managing the contract – an important aspect of delivery that was not addressed in the 4<sup>th</sup> edition of the Rules. Proposed changes included new requirements to:

- publish a cancellation notice if a procurement that has been advertised on GETS is cancelled
- require that prime contractors have good processes for managing their subcontractors
- have a contract management system that captures key information on its contracts and
- have a contract management plan – although the details of that plan are not prescribed.

### **Summary of feedback**

Most of the feedback focussed on the expectations regarding subcontracting and the new provisions relating to contract management.

There was a mix of views on the expectations for subcontracting and suppliers in the supply chain. Some were supportive as it ensures greater accountability and transparency on suppliers to deliver on their contracts. Others were uncertain about how to operationalise these requirements as the Rules aren't mandated for suppliers, so the new requirements could place unreasonable expectations on businesses.

There was a range of views on contract management. Some felt the new requirements were too prescriptive, while others felt they didn't go far enough. Agencies were concerned with the scope

and scale of contract management planning for every contract, that it would be constrained by resourcing.

#### **Approach in the 5<sup>th</sup> edition**

The requirement that agencies require prime contractors to have good processes to managing their subcontractors has remained. This will reinforce that government seeks to engage with businesses with responsible business practices as set out in the Government Procurement Charter.

The contract management rules have been retained as proposed. While contract management has resourcing implications, raising investment and capability in contract and supplier management is vital to realising and reporting on public value.

### **PART THREE – PROCUREMENT SYSTEM REQUIREMENTS (RULES 37-47)**

Part three outlines the responsibilities that agencies have to ensure the procurement system operates effectively and efficiently. E-invoicing, efficiencies from collaborative contracts and reporting will help with system performance and monitoring.

In general, the proposed rules in this part have remained largely unchanged. Exceptions to this are requirements to consult in certain circumstances relating to business cases and investment decisions, public private partnerships (PPPs), and risk assessments.

#### **Summary of feedback**

Feedback on this part was varied. Some questioned the requirement to purchase from All-of-Government contracts for common goods and services. Others questioned what the reporting requirements would be because this would impact on resources.

#### **Approach in the 5<sup>th</sup> edition**

Overall, the rules in this part have remained largely unchanged. Questions regarding implementation, including around reporting requirements, will be addressed in guidance.

### **PART FOUR – GENERAL INFORMATION**

Part four covers information that is important to understanding the Rules. It includes who is required to apply the Rules at what level, types of contracts, non-procurement activities, value thresholds, roles and responsibilities within the procurement system, non-compliance information, and supplier complaints.

#### **Summary of feedback**

There were many submissions requesting that Part four – General information was brought to the front, to sit between the Context and current Part one – Core values. Respondents felt that the information was important to know upfront before reading the Rules.

#### **Approach in the 5<sup>th</sup> edition**

The General information has not been moved. However, the layout on the website will allow for easy user experience and navigation between sections of the Rules.

# Final words

Thank you to those who submitted feedback and comments to the proposed Government Procurement Rules through the public consultation process.

This feedback helped inform analysis and to shape and refine the proposals, options and further advice to Ministers.

The 5<sup>th</sup> Edition of the Government Procurement Rules are in effect from 1 December 2025.