

6 April 2025

Submission to MBIE on Draft Rules of Government Procurement 5th Edition

Introduction/Preference

Thank you for the opportunity to provide feedback on the Draft Government Procurement Rules 5th Edition.

PrintNZ is the industry association that represents the print and packaging industries in New Zealand. We have around 480 member businesses located across the length and breadth of New Zealand, with our membership representing more than 85% of the turnover of the combined industries. Our membership includes businesses with as few as 1 employee through to those with more than 1000 employees.

Print and packaging are niche industries that are core to the infrastructure of the economy. They are incorporated into almost every product and service made and used in New Zealand whether used in the domestic market or exported. Print is a vital communication tool across every sector of public service and the Government itself and many non-Government agencies purchase substantial amounts of print. We are aware that there is print that is purchased offshore and would welcome new rules that require more consideration of the economic and environmental benefits of procurement in New Zealand, maximising public value .

The three key pillars of Public Value are Good Quality, Good Outcomes and Good Price, and our industry can deliver all of these outcomes for print procurement when sourced in New Zealand

We comment on the Draft Rules as follows:

Part one - Core values Rules 1-5

This part is focussed on the values or behaviours expected of agencies and suppliers when conducting all procurement activities. These core values, which include integrity, accountability, transparency and fairness, are critical for creating and maintaining public confidence in how government uses public money. Key new elements are requirements to publish agency procurement policies and clear expectations on acting with integrity and being accountable.

1. Are these the core values that contribute to improved public trust and confidence?

We support initiatives to improve public trust and confidence with the Government Rules of Procurement. But this trust and confidence is also important for the businesses of New Zealand who are potential suppliers and key providers of public revenue. They too need to have trust and confidence that procurement is being assessed and allocated in a responsible manner.

Government procurement provides significant direct value for local manufacturing, securing jobs in both the regions and main centres, and also creates opportunities to innovate as we partner with others to build additional capacity to grow, particularly our export capabilities.

We acknowledge the Principles provide guidance to help Agencies make good procurement decisions, and the Charter sets out government's expectations.

Rule 3: Accountability

This Rule states the "Primary requirement" is that "*Agencies must be accountable for their procurement performance*".

However, under "Application" Rule 3 is silent on how Agencies **must** be accountable and how they must demonstrate that they have fulfilled the requirements of the Rules as appropriate to the contract.

The Rules have no requirement for post project evaluation - a matter that we see as a key component of Accountability. Specifically, we miss the inclusion of an obligation to evaluate whether in each case the Agency delivered what it set out to deliver and whether it has met the test of public value. And if not, why not?

We would suggest that Rule 3: Accountability be amended to include specific measures of performance relating to key rules with all contracts above a defined threshold required to complete a post-purchase evaluation, and a random sample (say 20%) of those below the threshold required to provide a post-purchase evaluation. This would ensure that all Agencies know they will be held accountable when purchasing and be more diligent in ensuring they purchase within the Rules.

A suitable threshold may be that listed in Rule 8: Economic Benefit:

Rule 8: Economic benefit to New Zealand has defined a threshold which would be appropriate - *\$100,000 for goods, services and refurbishment works and \$9 million for construction works.*

2. Are there other values, requirements or applications that should be added?

Transparency and consistency are critical for government procurement.

Transparency – previous editions of the Rules defined key terms like **must** (mandatory) and **should** (best practice). This is a serious omission and creates a risk of violation of the rules.

Consistency - Some Rules have key words in italics, which sometimes refer to information further down the page. However, this is not always the case and it is difficult to understand the purpose of the words in italics and whether they have additional reference points.

We suggest that the glossary needs to be clear definitions of words that can have a major impact on outcomes such as “must”, “should” and “expected to” to reduce the opportunity for misinterpretation and that formatting of the Rules needs to be consistent so they are easy to follow.

Part two - Procurement lifecycle steps

Planning Rules 6-9

Planning is critical to achieving good outcomes. The Rules in this section set out requirements focused on enabling agencies to realise the best possible public value from government contracts. This includes a requirement to undertake appropriate planning for the size, risk and complexity of the procurement, and detail on the elements to be addressed when planning a good procurement.

A new Rule requiring agencies to include economic benefits to New Zealand in every procurement replaces the Broader Outcomes Rules. The new Rule enables agencies to consider a wide range of matters that contribute economic benefit to New Zealand. There is also a new requirement to award below threshold procurements to capable New Zealand suppliers.

3. Tell us what you think about these proposed changes?

Rule 8: Economic benefit to New Zealand-

1. We believe Agencies should be the party responsible to quantify the economic benefits listed in Application 3 a-3i, rather than local suppliers. Agencies, with support from and in collaboration with local suppliers are best placed to quantify the economic benefits listed in Application 3 a-i., rather than local suppliers.
2. New Zealand businesses need to be confident that they are competing on a level playing field. The draft stipulates that “Agencies are **expected** to award contracts below the value thresholds ... to New Zealand businesses that are capable and have capacity to deliver on the contract.” As mentioned above there needs to be a clear definition of “expected to” to avoid any margin for misinterpretation.
3. We are concerned at the Value of Buying Local – setting a minimum weighting of 10% for economic benefits is not justified based on current research and understates the compounding value of buying local; we suggest that a minimum of 20% would be more reasonable. Government agencies such as Treasury, should be able to provide more realistic values that relate to each of the metrics of economic benefits listed in 3a- 3i, (compared to buying off shore) based on local research and updated on a regular basis.

4. Aside from the economic benefit of buying local, there also needs to be consideration for the environmental impact of buying product offshore and how it contributes to New Zealand's circular economy and its 2050 commitments. Apart from the carbon footprint of shipping, buying local provides a much clearer supply accountability for things such as raw materials sourcing, which offshore providers are often not required to verify.

There needs to be a more defined method to determine the economic and environmental contribution and impacts of the items listed in Rule 8, 3.a- 3.i and a higher minimum weighting than the 10% suggested in the draft.

Approaching the Market Rules 10-27

The Rules in this section provide certainty around approaching the market. They aim to clarify that processes other than traditional tendering are acceptable as long as the minimum expectations for open competition are met. The requirements around ensuring suppliers have sufficient time to respond when bidding for a procurement have been streamlined. As many contracts use subcontractors, there is a new requirement focusing on improving transparency of subcontracting. A significant area of change is in respect of panel contracts. There are several new requirements when setting up and managing panel arrangements.

4. Tell us what you think about these proposed changes?

These rules seem comprehensive and straightforward, but we make the following comments.

Rule 10 - Requirement to openly advertise.

There is a typographical error in 2.b.i "... **\$100,00**

RULE 14 - Sub contracting.

In the same way that third party agents are bound by the Rules, we believe that so too should subcontractors be required to follow the same rules as primary contractors to ensure consistency across the project.

We believe that the subcontracting rule be changed to ensure that subcontractors are bound to the same rules / outcomes as the prime contractor signing the contract.

Awarding the Contract Rules 28-36

This section covers awarding the contract and managing the contract. There is a new requirement to publish a cancellation notice if a procurement that has been advertised on GETS is cancelled. There are new requirements to have a contract management system to ensure the agency has key information on its contracts. There is also a requirement to have a contract management plan although the details of that plan are not prescribed. A well-managed contract will mitigate the risk of value loss at delivery. Contract management should be ongoing throughout the life of the contract to achieve the best public value outcomes.

5. Do the new requirements in this section support agencies to have good contract management in place?

These rules seem to support good contract management.

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. Reporting obligations and collaborative contracts will help with system performance monitoring.

6. What are your views on this section. Is there anything else that should be considered in this section?

Suggestion: *Managing Risk appropriately needs to be clearly defined as a mandatory Rule*

Risk management is currently addressed in the Charter:

5. MANAGE RISK APPROPRIATELY.

Responsibility for managing risks should be with the party – either the agency or the supplier – that is best placed to manage the risk. Agencies and suppliers should work together on risk mitigation strategies.”

Considering the considerable dialogue that has taken place over the last five years with respect to who carries the risk, the Rules must specifically address this issue.

We suggest that *Managing Risk* appropriately needs to be elevated to a RULE stating that:

Responsibility for managing risks must be with the party – either the agency or the supplier – that is best placed to manage that risk.

Post contract delivery evaluation – please refer to comments under Rule 3: Accountability.

Missing from the Rules is any requirement for Agencies to evaluate and report post contract delivery. Aside from ascertaining whether the contract fulfilled its Public Value outcomes, this is essential to ascertain whether the Agency and its contractor have delivered what was required (as per Rules) on time, in full and to specification.

We suggest that Agencies must, upon completion of the contract, complete and publish a post-project evaluation report . Post-project evaluation must be carried out for all projects above the

Part four - General information

7. Do you find the information in this section clear and easy to understand? Are there other topics on which some general information would be helpful?

Yes - clear and easy to understand.

Application of the Rules: Point B, we would suggest that under point B - Wider state sector and public sector agencies are also expected to have regard to the rules, rather than encouraged to. There is still too much work done in these areas that is sent offshore and reducing the positive economic impact they could have on New Zealand.

Format and layout

The proposed 5th edition of the Rules has been streamlined and simplified to try to create a better user experience and make it easier to follow and apply the Rules.

8. Tell us what you think about the new format?

The format is good and easy to follow - we have made comments above with regard to some of the content, and the consistency of layout.

Also refer to responses to Part One CORE VALUES.

Rule 1: The Principles and Government Charter belong in the *Context* section.

Rule 4: *Non-Discrimination and Offsets* and Rule 5: *Protection of Supplier Information* are Standard Operating Procedures or Principles, rather than Core Values.

Additional Rules/Principles need to be added with respect to Transparency and Consistency.

General feedback

9. Do you have any overall thoughts about the proposed Rules 5th Edition? If you have comments on specific aspects of the proposed Rules, including the Context section at the start, not already covered, provide these here.

We are surprised to see that for the on-line submission of feedback there appears to be no mechanism to identify the submitter so for that reason we have chosen to submit our response both by email and via the online portal.

I would welcome the opportunity to discuss this submission further.

Ngā mihi nui



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