



8 April 2025

New Zealand Government Procurement
Ministry of Business, Innovation & Employment
15 Stout Street
Wellington 6011

Re: Government Procurement Rules 5th Edition consultation

Tēnā koutou,

Thank you for the opportunity to make a submission on the Government Procurement Rules 5th edition.

Te Kāhui Whaihanga New Zealand Institute of Architects (NZIA) is a 4,000-strong member-based professional organisation representing registered architects, architectural graduates, students, retired architects and affiliated built environment professionals.

The Institute aims:

- To promote excellence in architecture, ethical conduct in the practice of architecture and the interests of the profession.
- To advance the study and practice of architecture.
- To improve and elevate the technical and general knowledge of persons engaged in architecture.
- To bring before government authorities, public and other bodies any matters affecting architecture.

NZIA has previously provided feedback to the Ministry during the Procurement Rules Review in 2024.

We wish to further note and provide feedback during the current Consultation process on the following themes.

Specific Feedback

Rule 33: Debriefing Suppliers

We endorse the requirements and clarity added by this Rule to ensure that debriefs are helpful, constructive, and occur within a reasonable timeframe. We have received



member feedback that debriefs have previously been difficult to arrange, or vague and without sufficient clarity on why alternative suppliers may have been selected.

We encourage the Ministry to ensure that agencies are aware of the updated debrief Rule and fully educated on its requirements.

General Feedback

Online Forms

These are often in PDF file format but can be difficult to enter information into, particularly around spreadsheets where there is no functionality in the document to total the columns of numbers. This often means duplicating information in a separate spreadsheet and transferring numbers, which can be difficult if there are embedded formulas. It would be helpful in these cases if the spreadsheet template could be supplied with the PDF so that entries could quickly be entered and totalled. A PDF could be printed from here for final submission on GETS.

Onerous Liabilities and Obligations

Occasionally contracts other than All-of-Government (AOG) contracts have been proposed. These often have onerous liabilities that require significant time to negotiate between the parties and potentially creates unnecessary tension at the start of a contract.

Non-AOG contracts can have onerous obligations on suppliers in claiming for additional works and variations instructed by a client or their agent. Timelines for considering variations and payment often don't meet with contract requirements, including the overarching Construction Contracts Act obligations.

In addition, we request that the Ministry work to create more awareness of the AOG contract type and that these should be used in the first instance unless an exceptional case is made and agreed with MBIE. The AOG contract is easy to use, and NZIA has already negotiated special conditions for consultancy services with several AOG agencies including Kāinga Ora and others.

Professional Indemnity (PI) Insurance

The level of PI insurance requested on projects needs to be carefully considered.



Requesting high levels of insurance from suppliers is likely to exclude smaller architecture practices from tendering, as costs of holding increased insurance are substantial and involve multiyear commitments.

This applies to individual contracts but also supplier panels that have been set up by various agencies like Kāinga Ora and the Ministry of Education:

- Often to get onto a supplier panel, there is a significant cost increase for an architectural practices to provide the minimum PI cover these panels require.
- Suppliers are required to commit to and hold increased PI before being confirmed as part of the supplier panel and before being considered or awarded any work.
- Upfront costs for carrying additional PI insurance can be substantial and onerous especially for smaller architectural practices and discourage their participation. This potentially means the smaller regional architectural practices often well placed to do projects locally in their community with often lower overheads are excluded.

PI coverage should be proportional to risk and scale of the work and set at a reasonable level. Requiring a high amount of coverage is likely to exclude smaller architecture practices with less financial resources from tendering, limiting the competition for contracts and diminishing economic opportunity across the sector.

Price Versus Non-Price Criteria

Some NZIA members have expressed skepticism of whether price and non-price criteria are evaluated independently during the proposal review process and whether price becomes the *de facto* criteria for most contracts.

Price and non-price criteria ought to operate as a 'two envelope' system, where a tender response is evaluated first and independently on non-price elements before moving on to price – the second envelope.

In our member experience and in feedback received during the debrief process after contracts are awarded, price often becomes the default evaluation criteria as the non-price elements of submissions often fail to distinguish one respondent over others.

Some members suggest some type of auditing to review decision making and the methodology used in awarding contracts to ensure the integrity of the price and non-price evaluation process.



Previous Experience

For small- to medium-sized architectural practices without direct government project experience, we suggest previous experience in the commercial sector could be looked on more favourably as a qualifying credential.

Sustainability

The NZIA is aware of a submission put forward by the New Zealand Green Building Council regarding the Government Procurement Rules 5th edition. As their submission is comprehensive and focused on the Sustainability aspects of the proposed Rules, we have elected to add our name as a supporter of their submission rather than detail specific Sustainability-related concerns or feedback here.

We thank you for the opportunity to add our voice to the consultation process on behalf of our members.

We remain keen to work with MBIE and Government Procurement to ensure the new 5th edition Rules enable the widest possible participation from architects, foster healthy competition and the best possible results for the construction industry, built environment and economy.

Ngā mihi,

A handwritten signature in black ink, appearing to read 'm abbot'.

Mark Abbot
Interim Chief Executive
Te Kāhui Whaihanga New Zealand Institute of Architects