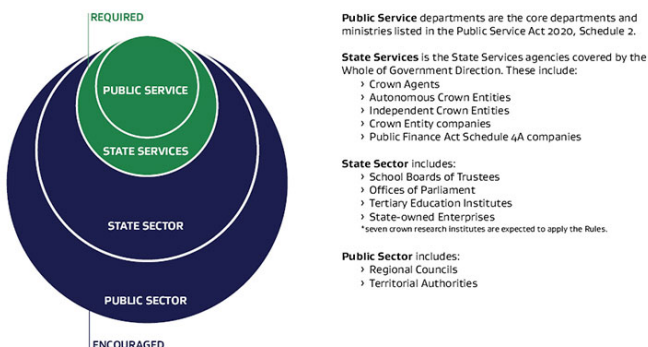


Extending the Government Procurement Rules to government entities in the New Zealand public sector

Grant Thornton Response

NZ's Public Sector spend of \$42b is a real opportunity to achieve better outcomes for NZs, we agree¹. Our recent research² has shown that organisations in the public sector are making great progress in implementing and creating broader outcomes.

The Rules do provide a flexible framework for government entities to procure goods, services and works. We have watched the evolution from the 1st to the 4th Edition of the rules in creating improvements in the way government engages with the market – RFPs are cleaner and easier to read, there are considerable numbers of panels in place and there's quite a toolkit of things for people to use. In our consulting work we recommend clients, especially public sector ones, make use of the GPP resources. They are not only open and accessible, they are good. The more people use them the more standard they become, removing the inefficiency for suppliers having to manage multiple formats and contract types.



Currently 135 entities must apply the rules, the two inner most circles of the diagram, driving \$42b of spend.

The outer two circles comprise a much greater number of entities, a much greater range of type of entities but a relatively small amount of spend, approximately \$8b. Using the thinking of Vilfredo Pareto, we would ask “what is the problem?”

Third circle

There is a considerable range of entities, especially in the third circle (State Sector), all the way from School Boards to meso-economic entities like the Tertiary Institutes and State-Owned Enterprises (SoEs). We

have done considerable work with these latter over the years, putting in place procurement frameworks. In this work clients have asked for, and we have been careful to craft, frameworks that directly reference the rules and are congruent with them. Some might say that the difference between should and must for this group is one of degree, not distinction as the entities' behaviour is largely in line with the intent and letter of the rules.

For the many Boards of Trustees, we wonder if increasing compliance is helpful? These are volunteers after all, and for many schools having someone knowledgeable about them would be a luxury. We suggest other levers available to MBIE might be more effective in the short term than increasing a compliance cost.

Fourth circle

In the outer circle, our experience in working with many of NZ's metro and regional councils and the territorial authorities (TAs) is that many conform largely with the Rules, especially those of greater scale. The larger authorities have very well-developed procurement capability that is aligned well with the Rules, as do the major COOs. The smaller councils perhaps lack the specialist procurement expertise and frequency of larger procurements. They have also collaborated to increase their power and efficiency notably with common indirect categories via the LASS bodies. In our work with these we have

¹ <https://www.interest.co.nz/business/101830/what-happens-when-nation%E2%80%99s-biggest-spender-changes-way-it-shops-it-has-potential>

² <https://www.grantthornton.co.nz/insights/implementation-progress-government-procurement-rules--4th-edition/>
https://www.linkedin.com/posts/michaelworth1_implementation-progress-government-procurement-activity-6727366537105281024-7yB5

experienced they not only look towards the Rules (or we direct them to) but they are very mindful of following good practice and probity.

We note that the metro councils, Council Owned Organisations (COOs) and TA investments (like Christchurch Airport) have some of the leading NZ examples of social, cultural and environmental procurement.

So, what should be done?

In our view, while the \$8b could be brought under the purview by making should a must, we think it would have limited effect for much of this spend as the large agencies (Tertiary Education Institutes, SoEs, CRIs and TAs) already act largely as if it is a must. Making it a blanket requirement could lump a compliance cost on a great number of smaller entities without the capability to respond and probably for little benefit.

We think there is a better question. [How can Government use knowledge, practice and \\$42b as a lever to influence the \\$200b in the private sector?](#) Rather than Rules, how about tools? There's a body of knowledge created inside GPP which has already been made "open -source", namely the tools and templates on the GPP website. What could take this approach the next step? We contribute a few ideas below.

Tools not rules: open source the practice of putting broader outcomes in place

As we found in our recent research² leading agencies are already making progress towards realising the broader outcomes. We think this leads to two "open source" possibilities

- i) How might the leading agencies influence the laggard agencies?
- ii) How might this knowledge be accessed by the private sector?

In terms of this second item, we have been developing some thought leadership to upskill suppliers to government³.

Tools for schools

For the school boards, what tools and collective activity might be more effective than mere compliance. For example, how could more effective buying groups, blanket contract / purchase order and panels be used? Could these be aligned with regional educational clusters to manage time consuming procurements (such as builds, major upgrades and maintenance). Could the Ministry of Education, with an inbuilt procurement capability, take the lead on this activity?

Ticks not checklists

Conforming to the Rules creates a couple of deadweight costs, particularly to smaller entities, firstly in becoming knowledgeable about them and secondly providing evidence of compliance. MBIE might also have to increase the size of a function to manage the compliance. Instead of ticking a box, how might MBIE (or an accredited provider) assure that suppliers are in fact "good" in delivering ethical, safe, green products and services that employ and upskill Kiwis, with an emphasis on Māori and Pasifika? We have ticks for heart health and even dishwashers. How about a tick or rating for companies? Companies can choose to display these, or use something like a QR code or other identification, providing assurance down the supply chain that broader outcomes are being achieved. Government ticks carry some weight.

Assurance not inspection

Given the size of the public and private sectors, and the sheer number of goods, services and works and when considering the four elements of broader outcomes or the four elements of Treasury's Living Standards framework we see a tick system would rapidly become quite complex. The NZ public have shown in recent times they are prepared to follow Government lead, but this is not without question. Any system of "tick" would need to be robust and defensible. MBIE simply won't have the resources to deliver such a system, so we would recommend that MBIE set the framework, then accredit various organisations to deliver either advisory on how to achieve the tick (by improving your procurement) or assuring the tick (that

³ [https://www.grantthornton.co.nz/insights/government-suppliers-forget-output-think-outcomes-s?utm_medium=social&utm_source=LinkedIn&utm_campaign=Procurement%20Article&utm_term=\[NZ\]&utm_content=Thought%20leadership](https://www.grantthornton.co.nz/insights/government-suppliers-forget-output-think-outcomes-s?utm_medium=social&utm_source=LinkedIn&utm_campaign=Procurement%20Article&utm_term=[NZ]&utm_content=Thought%20leadership)
https://www.linkedin.com/posts/michaelworth1_government-suppliers-forget-output-think-activity-6732506738051944448-GOR2



what you say you do is what you actually do). Such a system could provide all of us with the surety that our spending is making New Zealand a better place, one dollar at a time.

Gardens are better without walls

Recent criticism in the press⁴ includes claims that Government rules “shut small Kiwi firms out”. While the article conflates the total government spend of \$42b and spend on consulting, some of the points might be valid. The AoG panels might be perceived as a kind of walled garden by those yet to gain access to them.

In our advisory work we are often called on to help clients to set up panels. Sadly, a few years later we are often called back to help reinvigorate the panel or to deduce why it wasn't as effective as it might be. Our experience is that panels are like gardens. They need active management and some weeding. New seeds need to be planted to grow the shoots of tomorrow's crops. We would agree with some of the sentiment of the article – it does take some effort to get onto the panel and to maintain your position there. There is a risk that only the larger firms might have the means to join. And yes, some of the panels have not been refreshed.

Our experience of the AoG panels, as a provider to several of the specialisms, is that they are working, but there is more that could be had. Some gardening is required.

- Firstly, we would suggest that more active management controlling entry and exit is required.
- Secondly, MBIE could consider entry stages to the panels, where prospective providers are able to compete for smaller or less risky pieces to learn about panel operation and demonstrate their capability before being admitted to the main panel.
- Thirdly, we would place some responsibility on the panel gardeners to educate and lift the skills of potential future providers. We note that in Australia there has been great success with Reconciliation Action Planning (RAP)⁵ where government agencies have really worked in partnership with indigenous organisations to foster their service provision to government. Since The Department of Prime Minister & Cabinet (PM&C) launched the policy in July 2015, over 1000 individual businesses have won 6,800 contracts with the Australian Government valued at \$1.084 billion⁶.
- Lastly we would suggest that for the more mature panels and providers (oursevlcs included) more direct allocation of work and less secondary procurement process is warranted to reduce the deadweight costs for suppliers.

In conclusion

We think the progress MBIE has made should be continued. We question that requiring increased compliance for the remaining 20% is not warranted, and many “shoulds” already act as “musts”. Instead we suggest practices that might be more beneficial

- increasing the transfer of open source knowledge
- reducing secondary procurement activity and replacing it with smarter uses of suppliers,
- creating an assurance system where trust in government leverages increasingly smarter procurement in both the public and private sectors.

On behalf of Grant Thornton

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⁴ <https://www.stuff.co.nz/business/123339304/governments-rules-shut-small-kiwi-firms-out-of-lucrative-contracts>

⁵ <https://www.reconciliation.org.au/reconciliation-action-plans/>

⁶ <https://webcache.googleusercontent.com/search?q=cache:300QZhwOXYkJ:https://www.pmc.gov.au/sites/default/files/publications/reconciliation-action-plan-2019-2020.docx+&cd=15&hl=en&ct=clnk&gl=nz>