



## COVERSHEET

<b>Minister</b>	Hon Stuart Nash	<b>Portfolio</b>	Economic and Regional Development
<b>Title of Cabinet paper</b>	The Implementation of Broader Outcomes and New Government Procurement Employment Rule	<b>Date to be published</b>	7 December 2020

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
September 2020	The Implementation of Broader Outcomes and New Government Procurement Employment Rule	Office of the Minister for Economic and Regional Development
July 2020	Annex Two: Implementation of Government Procurement Broader Outcomes Report	MBIE
7 September 2020	CAB-20-MIN-0423	Cabinet Office

### Information redacted

**YES**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of free and frank opinions.

## **In Confidence**

Office of the Minister for Economic Development

Chair, Cabinet Committee

### **The implementation of broader outcomes and new government procurement employment Rule**

#### **Purpose**

- 1 This paper:
  - 1.1 Reports back to Cabinet on how government agencies are incorporating broader outcomes into their procurement activities.
  - 1.2 Seeks Cabinet agreement to develop a new Government Procurement Rule for quality employment outcomes A draft of the proposed Rule is attached as Annex One.
  - 1.3 Provides the findings of a survey sent to mandated agencies in June 2020 on how they are incorporating broader outcomes into their procurement. The report is attached in Annex Two.
  - 1.4 Provides an update on the monitoring and reporting framework to establish a baseline and track what outcomes are being achieved across government.

#### **Executive Summary**

- 2 Since 1 October 2019 government agencies bound by the Government Procurement Rules (the Rules) have been directed to incorporate broader outcomes to achieve greater public value into their procurement activities.
- 3 Results from a Cabinet-directed survey of mandated agencies on how they are implementing the priorities [CAB-20-MIN-0289 refers] show that agencies have begun to implement the current priority outcomes. In particular, approximately 70 percent of respondents reported they have incorporated priorities on increasing access for New Zealand businesses, and reducing emissions and waste. Many agencies provided useful examples of what they are doing in these areas, such as breaking down larger procurement projects into smaller projects so that are more attractive to smaller or regional businesses. There is more to do to fully use the Government's procurement lever to achieve these priority outcomes.
- 4 As part of the survey, agencies were also asked if they were already including additional employment outcomes, such as enabling the redeployment of displaced workers and creating employment opportunities for disadvantaged population groups. The results were encouraging, showing some agencies were incorporating or considering these outcomes as part of their procurement.
- 5 While there is more to do, these results show that the government procurement policy framework supports employment outcomes for New Zealand workers. The economic impacts of the COVID-19 pandemic, however, are expected to be significant, particularly in respect to New Zealand's previously low levels of unemployment. Certain groups such as Māori, Pacific

peoples and women, who traditionally have higher rates of unemployment or low labour force participation, will also be more affected by the economic downturn.

- 6 The results of the survey highlight that government procurement should do more to create employment and keep New Zealanders in work. Therefore, I recommend that a new Rule requiring mandated government agencies to consider quality employment outcomes as part of their procurement be included in the Rules. A draft of this proposed Rule is attached as Annex One.
- 7 Procurement is only one lever of the Government's wider employment strategy. No one agency or Minister holds all the policy levers to successfully address the expected increase in unemployment. This new rule is one part of a coordinated plan ensure that agencies, suppliers and New Zealanders looking for work, are able to be matched to the training or additional support to obtain sustainable employment.
- 8 If Cabinet agrees to the proposed new employment Rule, the intention is for the development and adoption of the Rule to be undertaken as part of the Government Procurement COVID-19 recovery plan already approved by Cabinet [CAB-20-MIN-0326 refers]. This will enable MBIE to undertake the consultation on the new Rule alongside consultation on the other proposed changes to the Rules, such as the extension of the government procurement mandate.
- 9 Finally, MBIE is continuing to develop a monitoring and reporting framework to obtain a system-wide view of government procurement activity, including establishing a baseline and tracking the outcomes that are being achieved across government. MBIE has developed the framework to collect data on the broader outcomes priorities and is in the data collation phase. Baseline results against the priority areas are expected to be available by October 2020. Additional outcomes, such as the proposed new quality employment Rule can be incorporated into the monitoring and reporting framework after adoption.

## **Background**

### ***Broader outcome priorities***

- 10 On 1 October 2019, the revised Government Procurement Rules (the Rules), outlining four new priority areas for achieving Broader Outcomes, came into force [CAB-19-MIN-0213.02 refers]. The four priorities in the Rules are:
  - 10.1 Increase New Zealand businesses' access to government procurement (Rule 17);
  - 10.2 Increase the size and skill level of the domestic construction sector workforce and provide employment opportunities to targeted groups (Rule 18);
  - 10.3 Improve conditions for workers and future-proof the ability of New Zealand businesses to trade (Rule 19); and
  - 10.4 Transition to a net zero emissions economy and designing waste out of the system (Rule 20).
- 11 These initial priorities were identified to avoid burdening agencies and suppliers with too many additional requirements and allow all parties to get used to the concept of broader outcomes. However, it was noted at the time that these priorities would be revisited in the future and additional ones adopted if deemed necessary.
- 12 The Rules provide a flexible framework for governing public procurement activity in New Zealand, and are designed to leverage government procurement spending to achieve greater public value. They do not preclude agencies from incorporating other broader outcomes into their procurement activities. This paper updates Cabinet on the progress made since the previous update in May 2019 [CAB-18-MIN-0516.01 refers].

### ***Survey of government agencies***

- 13 On 15 June 2020, Cabinet directed mandated agencies under the Rules to report back to their responsible Minister, as appropriate, on their implementation of the revised Rules before 30 June 2020 [CAB-20-MIN-0289 refers]. The report back (survey) requested information on the implementation of broader outcomes, as well as the measures mandated agencies have undertaken to use procurement to:
- 13.1 enable the redeployment of displaced workers;
  - 13.2 support training and education opportunities for workers;
  - 13.3 encourage the employment of local workers and cohorts who traditionally have poorer outcomes, such as Māori and Pacific peoples;
  - 13.4 identify opportunities that enable a wider range of businesses to access government procurement opportunities, specifically supporting participation by small to medium enterprises and Māori and Pacific peoples businesses.
- 14 Cabinet invited Ministers to refer these reports to the Chief Executive of the Ministry of Business Innovation and Employment (MBIE) as the Procurement Functional Leader (PFL) for collation.
- 15 MBIE has collated the data and produced a report outlining the key findings. This is attached in Annex Two.

### ***Government procurement supporting economic recovery***

- 16 This Cabinet paper also follows on from my previous Cabinet paper: *Government Procurement supporting New Zealand's COVID 19 economic and social recovery*, approved by Cabinet on 6 July 2020 [CAB-20-MIN-0326 refers].
- 17 In my previous paper I mentioned the Employment, Education and Training Ministerial Group and I were considering the introduction of additional broader outcomes, particularly those focused on employment, given the impacts of the COVID-19 pandemic on New Zealand's economy.
- 18 It is expected that with continuing closed borders there will be a fall in economic activity along with an increase in economic uncertainty. This will lead to increased unemployment, particularly in certain regions and sectors, and will likely disproportionately affect already groups with traditionally high rate of unemployment or low labour force participation.
- 19 In order to mitigate these outcomes, the Government is stimulating economic activity using its spending power. At approximately \$42 billion annually, government procurement spending represents a significant amount of economic activity that can also be leveraged to help achieve the Government's broader economic and social objectives.

### **Report back on the implementation of broader outcomes and survey results**

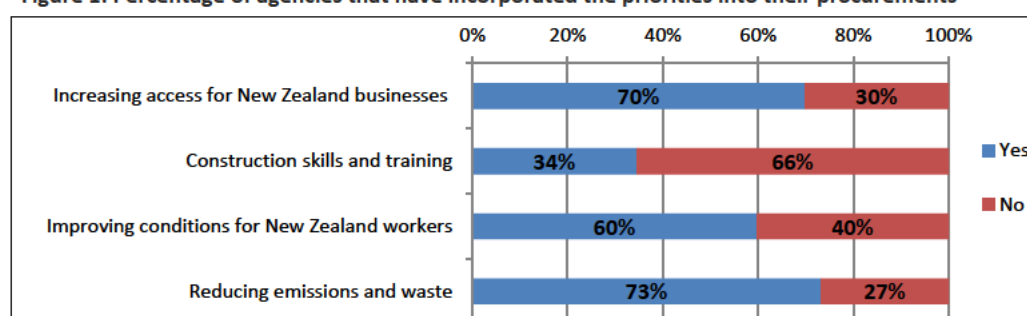
#### ***Agencies are adopting the Rules and tailoring approaches to best suit their agency and procurement activity***

- 20 Since the introduction of the revised Government Procurement Rules in 1 October 2019, government agencies have begun including the broader outcome priorities in their procurement activity. There is some progress and agencies are using the Rules as a flexible framework, and tailoring approaches to include broader outcomes. Many agencies are adapting the Rules to best suit their requirements, the level and type of procurement activity, and to achieve greater public value.

### *Survey results confirm the majority of mandated agencies are incorporating the priorities*

- 21 Findings from the survey of mandated agencies conducted in June 2020 are positive. The survey results show the majority of mandated agencies applying the broader outcomes framework to their procurement.
- 22 The survey response rate was approximately 87 percent with 120 of the 138 mandated agencies responding. Around 70 percent of respondents reported they have incorporated priorities on increasing access for New Zealand businesses, and reducing emissions and waste.
- 23 Approximately 60 percent reported incorporating outcomes relating to improving conditions for New Zealand workers. A small number of agencies (approximately 35) have undertaken construction procurement activities and this is reflected in the results, with 34 percent of respondents reporting they have incorporated outcomes on construction skills and training.

Figure 1: Percentage of agencies that have incorporated the priorities into their procurements



### Increasing New Zealand businesses' access to government procurement

- 24 Around 70 percent of survey respondents reported incorporating outcomes on increasing New Zealand businesses' access to government procurement. For example:
  - 24.1 **Department of Conservation** – is breaking down large procurement projects into packages to make them more attractive to smaller suppliers and sole traders. A Department of Conservation redevelopment at Dolomite Point broke the work into smaller work packages to enable local suppliers to become involved.
  - 24.2 **Land Information New Zealand (LINZ)** – has established a Demolition Works Panel with two tiers of providers, one tier at a national level and the second tier focussed on regional suppliers. The inclusion of this regional tier has resulted in nine regionally based suppliers being a part of the panel.
- 25 The Department of Internal Affairs (DIA), MBIE and the Ākina Foundation<sup>1</sup> are working together to support a flourishing social enterprise sector as part of the Social Enterprise Development Programme.<sup>2</sup> This includes working with procurement leaders on social procurement approaches and identifying opportunities for New Zealand social enterprises to participate in government procurement.

### Construction skills and training

- 26 A small number of agencies (approximately 35) have undertaken construction procurement activities. This reflects that not many agencies procure construction and infrastructure works. But these respondents reported they have been incorporating construction skills and training outcomes. For example:

<sup>1</sup> The Ākina Foundation specialises in enterprise, procurement and investment offering a range of tailored consulting and capability building services: <https://www.akina.org.nz>

<sup>2</sup> The Impact Initiative: <https://www.theimpactinitiative.org.nz/>

- 26.1 **Kāinga Ora – Homes and Communities** – is ensuring there are opportunities for Māori and Pacific peoples businesses as well as opportunities to retain and create jobs – particularly for targeted population groups. For example, the Arlington Flats Project in Wellington will look to deliver a number of skills and training based initiatives including numeracy, literacy and driving skills and the recruitment and employment of apprentices.
- 26.2 **New Zealand Transport Agency (NZTA) – Waka Kotahi** – has incorporated broader outcomes into its major infrastructure projects including tender specifications, contract and reporting requirements. Two dedicated sustainable procurement roles have also been established to lead the implementation of broader outcomes.

Improving conditions for workers through government procurement

- 27 Approximately 60 percent of respondents reported incorporating outcomes on improving conditions for New Zealand workers. Examples include:
- 27.1 **Ministry of Foreign Affairs and Trade** – has put in place a package of incentives which result in contracted cleaning workers being paid at or above the proposed wage floor of \$21.15 per hour.
- 27.2 **Accident Compensation Corporation (ACC)** – is embedding the broader outcomes approach into business cases, board papers, procurement plans and Request for Tender documentation. Tender respondents are asked questions related to the priorities including questions about sustainable, fair and equitable employment environments and what employment policies respondents have in place.
- 27.3 **Department of the Prime Minister and Cabinet** – include a pre-condition for cleaning services contracts for Government House. There is also a future requirement that companies provide apprenticeships/training and health and safety practices.

Reducing waste and emissions through government procurement

- 28 Around 70 percent of respondents reported they have incorporated outcomes on reducing waste and emissions into their procurement activity. For example:
- 28.1 **NZTA and New Zealand Trade and Enterprise** – are transitioning their fleets to electric vehicles (EVs) and almost a quarter of their fleets are EVs (38 and 7 vehicles respectively).
- 28.2 **Auckland District Health Board** – is leveraging pricing of more sustainable compostable cups to enable the diversion of over 2 million foam cups from the landfill each year.
- 28.3 **Fire and Emergency New Zealand** – is actively working with key clothing suppliers to remove excess packaging from deliveries and move from plastic to paper or recyclable wrappings. 11,000 t-shirts were ordered for volunteers that would usually be individually wrapped but they requested this didn't happen on manufacture so they arrived unwrapped in boxes.
- 28.4 **All-of-Government (AoG) contracts:**
- Plastic-free, fully recyclable packaging of photocopy paper is being phased-in by AoG suppliers, with the potential to divert almost 9,700 kilograms of waste from the landfill.
  - AoG suppliers have reduced carbon emissions from government purchases of photocopy paper by the equivalent of 1,121 cars coming off the road.
- 29 First published in April 2019, the Emissions Fleet Dashboard allows mandated agencies to see how they are tracking in comparison to other agencies and encourages them to transition to

an emissions free fleet.<sup>3</sup> Since the launch, there has been an increase in battery electric vehicles from 71 to 108 and low emission hybrid vehicles from 228 to 944.<sup>4</sup> As at June 2020, average emissions have dropped from 169g/km of CO2 to 162g/km.

***A small number of agencies are yet to incorporate broader outcomes***

30 Of the mandated agencies surveyed, 20 said they are yet to incorporate any priority outcomes into their procurement activity. (A list of these agencies can be found in the report in Annex Two). A small number of agencies did not provide any reasons for why they are yet to incorporate broader outcomes. Some agencies did provide reasons such as:

30.1 **Agencies are not large public purchasers** – they primarily utilise the All-of-Government (AoG) contracts for purchases of goods and services which have broader outcomes included in them e.g. Crown Law Office, New Zealand Productivity Commission, Social Workers Registration Board and the Takeovers Panel.

30.2 **Opportunities are yet to arise** – Many include broader outcomes in their procurement policies and strategies. However they are yet to include broader outcomes into procurement projects e.g. Civil Aviation Authority of New Zealand, Crown Irrigation Investments Limited, Institute of Environmental Science and Research Limited and Parliamentary Counsel Office.

30.3 **Winding down** – The Southern Response Earthquake Services Limited is winding-down and is now approaching the end of its intended function. Consequently, no significant procurements have occurred since 2019 and no procurement activities are planned

31 Overall, while agencies are beginning to incorporate broader outcomes into their procurement processes, more support will be needed to fully incorporate these outcomes. I will continue to report back to Cabinet on agency progress

**Agencies are already incorporating employment outcomes**

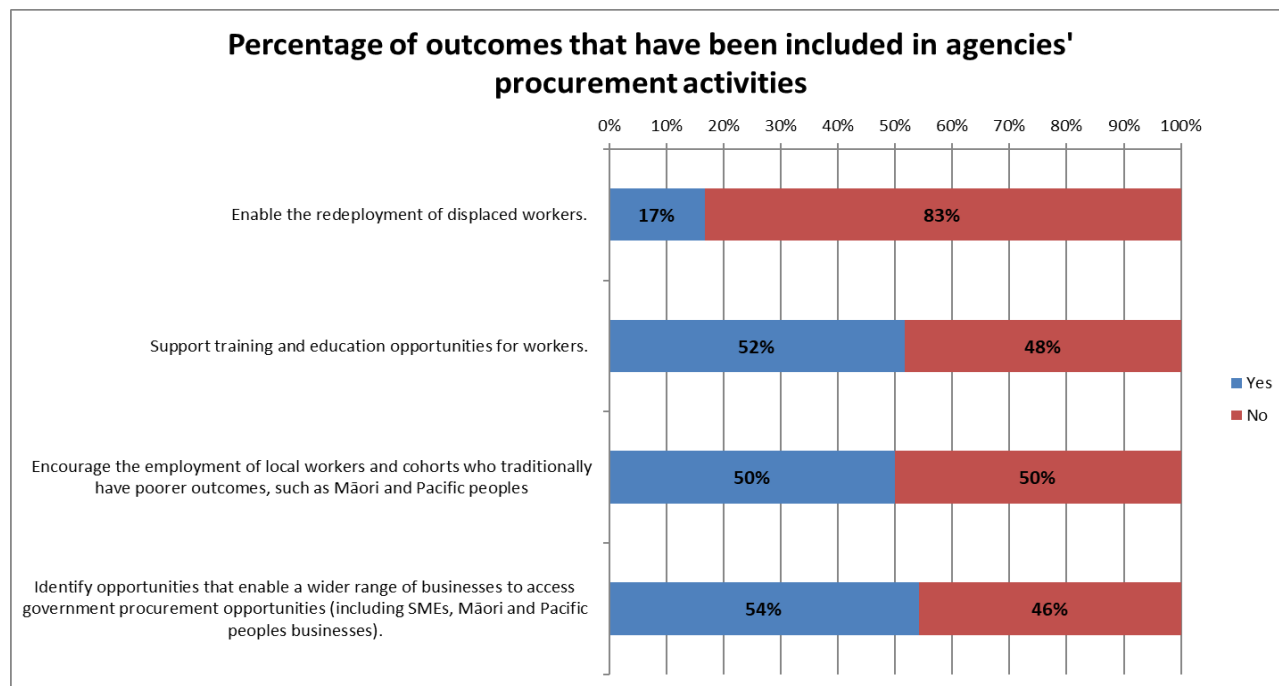
32 MBIE took the opportunity to ask agencies whether they were already incorporating specific employment outcomes in their procurement activities as part of the survey. Around half of respondents reported including three out of the four employment and training outcomes enquired about into their procurement activity, as outlined in Figure 2.

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<sup>3</sup> Fleet Emissions Dashboard: <https://www.procurement.govt.nz/broader-outcomes/reducing-emissions-and-waste/reducing-government-fleet-emissions/>

<sup>4</sup> Low emission hybrid vehicles includes both petrol electric hybrid and plugin electric hybrid vehicles.

Figure 2: Percentage of outcomes that have been included in agencies' procurement activities



33 Around 16 percent reported including outcomes to enable the redeployment of displaced workers. Other agencies generally reported there were no employment opportunities arising within their organisations or within their procurement activities where displaced workers could be redeployed. However, some agencies mentioned this may become a consideration in their procurement as the number of displaced workers increases due to the effects of the COVID-19 pandemic.

34 Examples of how agencies have incorporated employment related broader outcomes include:

34.1 **New Zealand Transport Agency (NZTA)**

- Has set a target of 60 percent local workforce to deliver the Te Ahu a Turanga Manawatū Tawarua Highway project (equating to 300+ people) incorporating employment and training opportunities through several initiatives such as employing around 12 people through Central SkillsHub via a pilot recruitment drive, and providing scholarships to iwi partners for 10 cadets within the MSD/Conservation Volunteers programme run by the NZ/iwi partnership.
- As part of the Tairāwhiti Rooding Package, has included the retraining of forestry workers and is looking to promote Science, Technology, Engineering and Mathematics (STEM) initiatives with local schools and provide onsite workforce experience days.

34.2 **Department of Conservation** – has been using the rural nature of conservation activities to support local communities. For example, the construction project at Dolomite Point requires tenderers to demonstrate how their proposal will benefit the local community, specifically in employment opportunities.

**New quality employment procurement Rule**

35 These results show that the current government procurement framework is robust and flexible and can already support employment outcomes directly and indirectly. However, due to the extraordinary economic impact of COVID-19, I am proposing to be more directive to



enable government procurement to do more to protect and create employment for New Zealand workers.

- 36 I recommend a new broader outcome Rule requiring mandated government agencies to consider quality employment outcomes as part of their procurement be included in the Rules. I believe this will be the most effective method to ensure uptake and application of this important Government objective.
- 37 A draft, proposed Rule for employment, following the general framing of the existing broader outcome Rules, is set out in Annex One. I note that the wording of the draft Rule may change following further consultation.
- 38 I recommend that the scope of the proposed new Rule is limited to employment opportunities and that it does not include employment standards or explicit requirements to pay certain levels of wages. I note Rule 19 already sets out the requirement that suppliers will comply with employment and health and safety requirements. While there is a risk from focusing on minimum expectations, it does not prevent agencies from applying higher standards and they are encouraged to do so where appropriate.
- 39 Amending the Rules to require things like higher wages would create Budget obligations and increase expenditure. I also do not want to over-complicate the proposed Rule and I want to ensure there is no unnecessary delay to implementation. These priorities will continue to be worked on by agencies.
- 40 As with the broader outcome Rules, this proposed Rule will require MBIE, as the procurement functional lead, to provide quality guidance for agencies on how it can be applied. The scope and nature of this guidance is yet to be considered, but it would likely draw on experience and examples from agencies and local government that have implemented similar policies and could include consideration of weightings for evaluating supplier bids similar to the Rule for Construction Skills and Training. This guidance will also include advice on how agencies can support employment outcomes for people expected to be most affected by the economic impacts of COVID-19, specifically women, Māori, Pacific peoples, disabled people and youth.
- 41 The new Rule could also be applied to All-of-Government contracts where appropriate to facilitate its implementation. This would assist smaller agencies with limited procurement activities in applying the new Rule.

## **Impact and limits**

- 42 It is important to note there are some limits to the employment opportunities and outcomes government procurement can create for New Zealand workers as set out below.

### *The types of jobs created by government procurement may be limited*

- 43 Many mandated government agencies have limited procurement activities while others with large procurement spending tend to spend heavily in certain sectors. Specifically, smaller agencies may only procure through the All of Government contracts for things like office supplies, creating limited opportunities for employment. Big procurement projects are often infrastructure related, mainly employing people in construction and trades. These types of jobs may not be suitable or desirable for people who have lost jobs in sectors like tourism, especially without good training. In addition, there are likely to be other barriers to employment for certain groups of newly unemployed, such as the need to move to other regions to work on these projects.

### *The economic impacts of COVID-19 will be more severe for certain population groups*

- 44 The social and economic effects of COVID-19 have already disproportionately affected women, particularly Māori and Pacific women. Many of the industries that have traditionally

employed more women, such as retail, accommodation and tourism, have been severely impacted by the COVID-19 alert level restrictions, resulting in increased unemployment. For example, from June 2019 to June 2020 approximately 17,700 fewer women were employed in retail, accommodation and food services. Women's employment in tourism-related industries dropped by 8.4 percent (11,300 fewer women). For wāhine Māori in tourism industries, the drop in employment was 20.5 percent (4,000 fewer wāhine). In contrast, male employment in these sectors was unchanged or increased slightly.

- 45 Māori and Pacific peoples in general also tend to be more negatively affected by recessions than other population groups. For example, during the Global Financial Crisis (GFC) starting in 2008, Māori unemployment rates were twice as high, at 8.1% in the third quarter of 2008, compared to an average unemployment rate of 3.9%.
- 46 Youth (those aged 15-24 years) are another group at risk. Younger workers are often the first to have their hours cut or to be laid off and have less experience and fewer networks to find reemployment. This age bracket represents critical years for human capital development. Unemployment and loss of skills training and experience has long-term effects on lifetime employment and earnings outcomes for young workers.

*The quality of the jobs is important*

- 47 By targeting employment outcomes in government procurement, it will be important to avoid incentivising businesses to create low quality, make-work jobs just to boost numbers to win bids.
- 48 Furthermore, the jobs created by things like government infrastructure projects are often linked to the delivery of that specific project. Once the project is finished many people may be without work again. If the objective is to provide fixed-term work while the economy grows again this may not be an issue. But if the objective is to create long-term employment, further work would be required to create a system that links workers with further opportunities and creates sustainable, quality employment.

*The implementation of the proposed Rule will need to address these issues to be effective*

- 49 The proposed Rule has been specifically drafted to require agencies to consider how they can create quality employment opportunities. As part of the guidance to support the new Rule, metrics will be developed for what is meant by quality employment. These metrics could include factors such as:
  - work schedules and hours that are reliable but also suit employees' preferences (e.g. around childcare, flexible work arrangements);
  - nature of the work and skills required;
  - the wages paid, training and development opportunities; and
  - length of employment (e.g. permanent, or short or fixed term).
- 50 Under the new Rule agencies will be encouraged to work with suppliers to consider the jobs created in the supply chains of their procurement. This will help identify and address some of the issues around the number and quality of jobs created in procurement projects.
- 51 However, due to the limitations identified above, I believe that it will be important for agencies to work together as part of a wider strategy in order to achieve quality employment outcomes for New Zealanders.

## Procurement employment outcomes should be part of a wider strategy

- 52 Ultimately, the success of the outcome in terms of creating quality employment opportunities through government procurement will likely rest on how it is implemented. No one agency or Minister holds all the policy levers to successfully address the expected increase in unemployment as a result of the pandemic.
- 53 To achieve the outcomes desired, this change to the Rules is one part of our wider employment strategy. For example, we already have our Government's Employment Strategy aimed at making sure all New Zealanders can achieve their potential, find secure employment and have fulfilling careers. This strategy recognises that good employment outcomes are the result of a range of Government policy settings.
- 54 Government procurement is already part of the Construction Sector Accord, where agencies across government worked with the construction industry to create a high performing construction sector. One of the initiatives under the Accord was the Construction Skills Action Plan (CSAP) to boost the size, capability and productivity of the construction sector workforce. The CSAP included government procurement and, in particular, the Rule requiring construction skills and training, as a lever to achieve its goals.
- 55 I note that the Government's Employment Strategy remains relevant to the economic recovery from COVID-19 but a refresh of the strategy will be undertaken in order to ensure it meets the changing context of COVID-19. This refresh presents an opportunity to link Government Procurement with the priorities and objectives of the Employment Strategy. Combining the proposed new Rule with a wider strategy would help ensure consistent application of the new Rule. A co-ordinated strategy could also enable agencies to co-ordinate a projected pipeline of work, helping create long-term programmes of work that could provide longer-term employment opportunities for workers and New Zealand businesses.

## Measuring the achievement of broader outcomes

- 56 The ability to measure the delivery and results of broader outcomes, both existing and proposed, is an essential part of being able to measure success and effectiveness of the policy.
- 57 Following the survey, I note that many agencies reported they have frameworks in place to measure and ensure the effective delivery of broader outcomes through their procurement activity. Around 14 percent of respondents have effective contract management and reporting practices relating to broader outcomes. Approximately 23 percent of respondents have developed measures and set targets, while over 20 percent are in the process of establishing mechanisms to measure the achievement of broader outcomes.

Table 2: Approaches to measuring the effective delivery of broader outcomes

Measuring the effective delivery of broader outcomes	Agency #	Agency %
Setting measures and targets and/or use of benefit realisation plans	15	14%
Effective contract management and reporting practices	25	23%
In the process of implementing ways to measure	21	20%
Does not currently measure	40	37%

Notes: Percentages do not add up to 100 as agencies provided free text to this question, and the table represents approximate numbers and percentages to illustrate the proportion of agencies at each stage.

- 58 Many agencies stated that as the Rules only came into force in October 2019, they are yet to formalise their broader outcomes measurement frameworks. Agencies not undertaking significant procurement activity were more likely to report they are yet to develop processes or frameworks for measuring broader outcomes.

## **Monitoring and Reporting Framework**

- 59 In October 2018, Cabinet directed MBIE to develop a monitoring and reporting framework to obtain a system-wide view of government procurement activity, including establishing a baseline and tracking the outcomes that are being achieved across government. As part of this work, data on the implementation of the broader outcomes priorities will also be collected. [CAB-18-MIN-0516.01 refers].
- 60 MBIE has developed the framework to collect data on the broader outcomes priorities and is in the data collation phase. Baseline results against the priority areas are expected to be available by October 2020.
- 61 If the proposed changes to the Rules proceed, the new requirements will subsequently be incorporated into the monitoring and reporting framework in order to track the new outcomes as well.

## **Next steps**

- 62 MBIE will continue to disseminate and share good practice and guidance across agencies on how to incorporate and measure broader outcomes in government procurement. This includes supporting efforts in the construction and social sectors and working with other government agencies and partners, to improve capability and the effectiveness of government procurement.
- 63 If Cabinet agrees to the proposed new employment Rule, this work will be combined with the Government Procurement COVID-19 recovery plan already approved by Cabinet. This will enable MBIE to undertake the consultation on the Rule change in conjunction with the consultation on the other proposed changes to the Rules, such as the extension of the government procurement mandate.
- 64 The inclusion of the proposed new Rule in this process will also allow for further consideration and consultation on the form of the new Rule and whether it is a permanent Rule or a temporary Rule to aid the post COVID-19 economic recovery.

## **Impact Analysis**

### **Regulatory Impact Statement**

- 65 A regulatory impact analysis is not required.

### **Consultation on the Cabinet paper**

- 66 As mentioned, agencies were surveyed on how they are incorporating broader outcomes and a report is attached in Annex Two.
- 67 I worked closely with the EET Minister's Group on the development of the proposed quality employment outcome and their input has been incorporated into the recommendations.
- 68 All mandated agencies that are required to apply the Government Procurement Rules were given the opportunity to comment on this Cabinet paper. Feedback was received from the following agencies:

The Climate Change Commission, Drug Free Sport NZ, Ministry for Culture and Heritage, Ministry of Transport, State Services Commissioner, Department of Internal Affairs, Whanganui DHB, Education Review Office, Te Papa NZ Artificial Limb Service, Ministry for Primary Industries, Hutt Valley DHB, Southern DHB, Ministry for the Environment, Employment New Zealand, Kainga Ora, TVNZ, Maritime New Zealand, WorkSafe, Privacy

Commissioner, Inland Revenue Department, Government Security and Communications Bureau, Customs New Zealand, Oranga Tamariki, State Services Commissioner, New Zealand Transport Agency, ACC, Ministry of Education, Retirement Commission, Ministry of Foreign Affairs and Trade, Te Puni Kōkiri, DPMC, Ministry of Defence and the New Zealand Defence Force.

- 69 A summary of agency feedback on the draft Cabinet paper and report is included in Annex Three.

### Financial Implications

- 70 There will likely be additional administrative and financial costs for agencies from implementing and applying the requirements of the proposed Rule change. The additional resources required to fulfil the additional procurement outcome will be met through agencies' individual appropriations.

### Climate implications of Policy Assessment

- 71 The Climate Implications of Policy Assessment (CIPA) team at the Ministry for the Environment has been consulted and confirms that the CIPA requirements do not apply to this proposal as there is no direct emissions impact.

### Legislative Implications

- 72 No legislative implications have been identified in this paper.

### Trade implications

- 73 Government procurement is subject to the WTO Government Procurement Agreement (GPA) and is incorporated into most of New Zealand's Free Trade Agreements (FTAs). These agreements generally specify that government procurement should not be discriminatory and treat domestic and international suppliers fairly and equally.
- 74 The proposed procurement Rule requiring employment outcomes for New Zealand workers will not necessarily meet these thresholds for discrimination. International suppliers will still be able to tender for government procurement contracts, but like domestic suppliers, they will have to show what employment outcomes they will generate for New Zealanders. They could achieve these outcomes by partnering with local suppliers or showing how employment opportunities will be generated in New Zealand as part of their supply chain.

### Population Implications

- 75 The proposed employment Rule includes achieving outcomes for Māori and Pacific peoples. It is not limited to these population groups but can also include other groups with traditionally high rates of unemployment or low labour force participation as noted below.

<b>Population Group</b>	<b>Implications</b>
<p><b>Māori and Pacific peoples</b> Māori and Pacific peoples are disproportionately impacted by economic shocks, resulting in increased unemployment. Economic recession can lock in long-term unemployment, poverty (including in-work poverty), and poor health outcomes, reinforcing a cycle of inter-generational inequality.</p>	<p>The proposed quality employment outcome will include specific wording to target these population groups with traditionally high rates of unemployment or</p>
<p><b>Women</b></p>	

<p>Emerging evidence from overseas<sup>5</sup> and the Ministry for Women suggests that women are being disproportionately socially and economically impacted by COVID-19, resulting in higher levels of unemployment, and exacerbation of pre-existing inequalities.<sup>6</sup></p> <p>Women in the New Zealand labour force are more likely to work in lower-paid occupations,<sup>7</sup> hold less secure jobs and are more likely to be employed in the informal sector.<sup>8</sup> Labour market downturns result in higher levels of unemployment for women, and that is likely to be the case in the New Zealand employment market.<sup>9</sup></p>	<p>low labour force participation. Specific guidance and initiatives can also be developed to support outcomes for these groups.</p>
<p><b>Disabled people</b></p> <p>People with a disability experience inequality in the labour market, and therefore will be negatively impacted by the economic downturn expected as a result of COVID-19.</p>	
<p><b>Youth</b></p> <p>Younger workers are often in precarious employment and the first to have their hours cut or be laid off in economic downturns and have less experience and fewer networks to find reemployment.</p>	

## Human Rights

76 No human right implications have been identified in this paper.

## Publicity

77 If Cabinet agrees to the proposed new Rule, I intend to release a media statement announcing that government procurement will be prioritising jobs, Māori and Pacific peoples businesses, as well as sustainability.

## Proactive Release

78 Following Cabinet Office circular CO (18) 4 regarding the proactive release of Cabinet papers, this paper will be proactively released subject to redactions as appropriate under the Official Information Act 1982.

## Recommendations

79 The Minister for Economic Development recommends that Cabinet:

*Report back on the effectiveness of government procurement*

<sup>5</sup> United Nations, (April 2020), Policy Brief: The impact of COVID-19 on women. Retrieved at <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406>

<sup>6</sup> Ministry for Women, (April 2020), COVID-19 and Women. Retrieved at <https://women.govt.nz/news/covid-19-and-women>

<sup>7</sup> Ministry for Women, (April 2020), COVID-19 and Women. Retrieved at <https://women.govt.nz/news/covid-19-and-women>

<sup>8</sup> United Nations, (April 2020), Policy Brief: The impact of COVID-19 on women. Retrieved at <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406>

<sup>9</sup> <https://data.unwomen.org/resources/surveys-show-covid-19-has-gendered-effects-asia-and-pacific>

1. **Note** that since the introduction of the revised Government Procurement Rules in 1 October 2019, government agencies have been including the broader outcome priorities in their procurement activity to achieve greater public value.
2. **Note** that results from a survey of mandated agencies conducted in June 2020 shows approximately:
  - a. 70 percent of respondents are incorporating priorities on increasing access for New Zealand businesses, and reducing emissions and waste;
  - b. 60 percent of respondents are incorporating outcomes relating to improving conditions for New Zealand workers; and
  - c. 34 percent of respondents are incorporating outcomes on construction skills and training.
3. **Note** that over a third of survey respondents are incorporating other broader outcomes, wider than the priority areas.
4. **Note** that agencies report they have frameworks in place to measure and ensure the effective delivery of broader outcomes through their procurement activity.
5. **Note** that some agencies are already incorporating employment-related broader outcomes, such the redeployment of displaced workers and encouraging the employment of local workers and traditionally disadvantaged groups.

*New quality employment Rule*

6. **Note** that while the current government procurement framework is robust and flexible, the predicted economic impacts of COVID-19 on New Zealand's employment rate require Government intervention and use of government procurement spending as an additional lever to create and preserve jobs.
7. **Agree** to a new Government Procurement Rule that will require mandated government agencies to consider how their procurement and related supply chains will create quality employment opportunities for New Zealanders.
8. **Note** that the scope be limited to employment opportunities and not other outcomes such as employment standards or pay rates to facilitate the adoption of the new Rule.
9. **Note** that there may be limits to what government procurement can achieve on its own as the majority of the potential jobs created may be construction related or not in regions where people have lost jobs, requiring training and relocation.
10. **Agree** that the new Rule be implemented as part of a wider Government employment strategy to support New Zealanders post COVID 19 in order to be effective.
11. **Agree** that the Ministry of Business, Innovation and Employment develop advice on how agencies can support employment outcomes for people expected to be most affected by the economic impacts of COVID-19, specifically women, Māori, Pacific peoples, disabled people and youth.
12. **Note** that the proposed new Rule will be developed and consulted on as part of the wider Government Procurement supporting New Zealand's COVID-19 economic and social recovery programme agreed to by Cabinet on 6 July 2020 [CAB-20-MIN-0326 refers].

*Monitoring and reporting*

13. **Note** baseline results against the priority areas are expected to be available by October 2020.
14. **Note** that this will enable ongoing monitoring and measurement of the impacts of the broader outcomes framework.

Authorised for lodgement

Hon Phil Twyford  
**Minister for Economic Development**



## Annex One: Draft proposed employment Government Procurement Rule

### Rule X: Employment outcomes

- X. When procuring goods, services or works, agencies must:
- a. Consider how they can create quality employment opportunities for *New Zealanders\**, particularly displaced workers and groups with traditionally high rates of unemployment or low labour force participation (specifically women, Māori, Pacific peoples, disabled people and youth).
  - b. Have regard to *guidance* published by MBIE on how to create quality employment opportunities for New Zealanders through government procurement activity.
  - c. Conduct sufficient monitoring of government contracts to ensure that commitments relating to employment opportunities for *New Zealanders\** made in contracts are delivered and reported on.

\*New Zealanders means citizens or residents of New Zealand who are living and entitled to work in New Zealand.

## **Annex Two: Implementation of Broader Outcomes Report**

See separate document file.

### **Annex Three: Summary of agencies feedback on the draft Cabinet paper and report**

1. MBIE invited all mandated agencies to comment on the Cabinet paper, proposed new Rule and Survey results. Due to the tight timeframes only 33 of the approximately 138 mandated agencies provided comments. Of these about 26 agencies provided substantive comment on either the Cabinet paper, proposed Rule or the Survey.

#### **Comments on the Cabinet paper and proposed new Employment Rule**

2. The majority of the responses were supportive of the proposed new Rule with some agencies noting that it aligned with their existing procurement objectives under broader outcomes. However, many of these agencies commented that the proposed new Rule will require strong supporting guidance in order for it to be implemented effectively and consistently and that this would benefit from good examples or case studies to guide them.
3. The smaller agencies that responded noted that while they support the proposed new Rule, their procurement activities were limited, which means their opportunities to implement and achieve the outcome is also limited. Some of these agencies, however, noted that the outcome could be included in All-of-Government contracts which is where they do the majority of their purchasing.
4. Two agencies stated that the new Rule should target higher employment standards. One of these agencies wrote that not including employment standards as part of the new Rule would create significant risks to the desired outcomes of the Rule, in particular quality employment opportunities, and risked breaches of employment standards and poor working conditions. In contrast, one agency supported limiting the application of the new Rule and not including employment standards or explicit wage requirements. This agency noted that including these outcomes may lead to greater inconsistency in employment standards for contracted workers.
5. **Free and frank opinions** did not support the proposed new Rule. This agency wrote that it would not be workable to place this requirement on the procurement function of agencies and that the outcomes should be sought through legislation. This agency argued that government agencies may have the mandate to employ some workers directly, but not through suppliers. This agency also argued that targeting some disadvantaged groups would in turn disadvantage others and would be contrary to the procurement principle of fairness.
6. A number of agencies expressed the concern that the new requirements would increase both the costs of the procurement process and, ultimately, procurement contracts. The increased costs would be due to the increased complexity of the tendering process and increased costs to suppliers in meeting the requirements that will be reflected in the final contract.
7. Finally, in relation to the Rule itself one agency questioned why the definition of New Zealanders was restricted to citizens and permanent residents and not all people who are legally entitled to reside and work in New Zealand. A number of agencies also wanted more guidance and explanation of what is meant by quality employment outcomes.

#### **Feedback on the Survey**

8. In total, 32 agencies provided feedback on the *Implementation of Broader Outcomes* report. Agencies were largely supportive of the approach taken in the report, with very few actually suggesting changes.
9. Some agencies, including Accidental Compensation Corporation (ACC) noted that the report is primarily focused on what agencies are doing, rather than what the outcomes or benefits have been. Other agencies, including the Department of Internal Affairs and the Ministry of Housing and Urban Development noted that they were not provided with enough time to provide substantial feedback.