

10 October 2019

Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140

procurement@mbie.govt.nz

**RE TE KĀHUI WHAIHANGA AND ASSOCIATION OF CONSULTING ENGINEERS NZ
SUBMISSION ON UPDATED GOVERNMENT MODEL CONTRACT TEMPLATES**

Tēnā koutou

Thank you for the opportunity by the Ministry of Business, Innovation and Employment (**MBIE**) to provide feedback on the updated versions of the Government Model Contract (**GMC**) templates.

In the spirit of industry collaboration and the Construction Sector Accord, Te Kāhui Whaihanga | New Zealand Institute of Architects (**NZIA**) and the Association of Consulting Engineers New Zealand (**ACENZ**) are jointly submitting on this proposed change. The benefits of this approach are many – including the support we have from our combined membership, which is in excess of 17,000 professional members.

Both the NZIA and ACENZ are important professional bodies representing the architect and engineering profession.

The NZIA, which has been in existence since 1905, is the professional body representing more than 90 per cent of New Zealand's registered Architects and many recent graduates entering the profession; we have over 4,100 members. The NZIA is active not only in advocating in the interests of our members, but also in promoting practices and providing education and promoting industry wide co-operation that will improve the quality and sustainability of New Zealand's built environment.

The NZIA has, through its governance structure and membership, significant professional experience in the New Zealand construction industry. That experience includes a wide variety of projects across all construction types and scales. The NZIA also has more than a century of experience assisting our members and their clients with projects at all stages, from project establishment and concept design through to contract administration and site observation, depending on the scope of instructions from the client.

ACENZ was founded in 1959 and has 206 member firms who employ more than 13,000 professional staff. ACENZ members play a critical role in the planning, design and delivery of our nation's construction and infrastructure sectors.

ACENZ's vision is to positively shape the future of Aotearoa by supporting our members to create sustainable value for themselves, their clients and their communities. In short, much like the NZIA, we want to improve both the quality and sustainability of New Zealand's built environment.

Previous MBIE GMC Guidelines clearly stated that GMC templates were a suite of procurement contract templates to be used when purchasing "low-value, low-risk common goods and services". The Guidelines further stated that, "The GMCs are not intended to replace any existing industry standard or model terms and conditions. Other types of industry standard model contracts including: Consulting Engineers: Conditions of Contract for Consulting Services (CCCS); Agreement Architectural Services (AAS): New Zealand Institute of Architects standard professional services contract documents."

The NZIA and ACENZ are of the same opinion, the GMC is not a standard form of professional consultancy agreement and should only be considered for simple supply chain contracts e.g. window cleaning or stationery procurement. The use of the GMC in procuring professional services for design professional services and construction is neither appropriate or beneficial to the professional service provider nor any Crown agency. This is because the provisions do not appropriately address the nature and complexity of procurement, the risks involved, and it is unlikely to be covered by professional indemnity insurance provisions.

Both the NZIA and ACENZ will not be commenting on any changes to the GMC as it is not considered appropriate for use by Crown agencies for engagement of professional consultant services in procurement of construction projects. As professional bodies' representing members' interest, we have serious concerns about MBIE's recent distribution of the proposed updated GMC for review to our members registered on GETs for professional architectural or engineering services.

Further MBIE has posted [Standard types of construction contract - Information sheet](#) on its website setting out the standard forms of engagement to be used for professional consultancy services. The MBIE [Developing your Construction Procurement Strategy](#) guide includes a standard of good practice that reads,

Benefits of using standard contracts



Agencies must adopt a recognised standard form of contract where an appropriate one exists for their selected delivery model.

Use of standard construction contracts can help to reduce procurement and contract administration costs, as they are generally well understood by users. Standard construction contracts are generally developed in consultation with clients and the industry and consider both perspectives to arrive at a contract with an appropriate balance of risk. Their familiarity with the industry can also help avoid disputes over the meaning and intent of clauses.

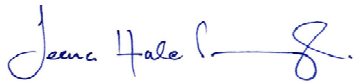
For more information on standard forms of designer/consultant and construction contracts, see the [Standard Types of Construction Contract information sheet](#)

The guide does not include any reference to the GMC suite in this or the [Standard types of construction contract - Information sheet](#).

The NZIA and ACENZ would urge MBIE to update its advice on the use of GMC for building and construction projects. In our opinion, a clear warning should be included in the documents advising Crown Agencies that they should not use the GMC template to procure specialist professional services for building and construction projects. The Information Sheet should also be clearly annotated to ensure that the GMC template is not used inappropriately.

Should you have any questions about this submission, please contact NZIA's Chief Executive Teena Hale Pennington on thalepennington@nzia.co.nz or 027 527 5273 or ACENZ Chief Executive, Paul Evans, on paul@acenz.org.nz or 021 340 317

Ngā mihi, nui



Teena Hale Pennington
Chief Executive



Paul Evans
Chief Executive

