



Northern Ireland  
Assembly

## Research and Information Service Briefing Paper

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# Public Procurement Competitions: Further Education Sector

## 1 Introduction

This briefing is a companion paper to NIAR 531-2014 and provides information on the current public procurement process in relation to Northern Ireland's Further Education Sector.

## 2 Public Procurement and the FE Sector

The Further Education Colleges (FECs) in Northern Ireland have the following legal status:<sup>1</sup>

*The current arrangements for further education in Northern Ireland were established by The Further Education (Northern Ireland) Order 1997 with colleges being self-governing incorporated bodies with effect from 1 April 1998. Based on this legislation, the Office for National Statistics, in 2010,*

<sup>1</sup> Belfast Metropolitan College, Annual Report, 2013-14,

<http://www.belfastmet.ac.uk/Docs/AboutUs/Public/Belfast%20Metropolitan%20College%20Annual%20Report%202013-14.pdf>

*reclassified colleges as part of Central Government. This has resulted in colleges being determined as Non-Departmental Public Bodies.*

As public bodies the Further Education Colleges must abide by Northern Ireland Public Procurement Policy.<sup>2</sup>

The awarding of contracts under public procurement is regulated in order to open up the public procurement market and to ensure free movement of supplies, works and services across the EU.

The current Directives are:

- The Public Contracts Regulations (2006) SI 2006 No. 5 (as amended); and
- The Utilities Contracts Regulations (2006) SI 2006 No.6 (as amended).

It should be noted that:<sup>3</sup>

*Under the Northern Ireland Act 1998 procurement is a transferred matter. The Assembly may make its own laws in respect of all transferred matters but, as the UK Public Contracts and Utilities Contracts Regulations were made prior to the restoration of a Devolved Administration in Northern Ireland, the UK took the lead in drafting these Regulations and subsequent amendments. As a result, public sector procurement in Northern Ireland falls within the scope of UK Procurement Regulations.*

As a result, NDPBs, and therefore the Further Education Colleges, are subject to the same rules as any other organisation (whether public or private) which is taking part in a procurement competition.

### 3 How a Decision is Made

Each competition will be based on an individual set of criteria based on the needs of the project.

However, there are principle elements which are applied to each one and form the main basis under which a decision is made:<sup>4</sup>

- **Best Value for Money:** Best value for money is the primary objective of procurement policy. It is defined by the NI Executive as:

*The most advantageous combination of cost, quality and sustainability to meet customer requirements.*

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<sup>2</sup> Department of Finance and Personnel, List of Public Bodies to Which NI Public Procurement Policy Applies, <http://www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation/ni-pp-policy/cpd-list-of-bodies-public-procurement-policy-applies.htm>

<sup>3</sup> Department of Finance and Personnel, NI Public Procurement Policy Handbook, [http://www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation/ni-pp-policy/cpd\\_policy\\_ni\\_public\\_procurement\\_policy\\_handbook.htm](http://www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation/ni-pp-policy/cpd_policy_ni_public_procurement_policy_handbook.htm)

<sup>4</sup> Ibid

- **Integration of Sustainable Development:** This requires procurement policy to pay due regard to the Executive's social and economic policies, rather than cut across them; and
- **Award of Contracts on the Basis of Most Economically Advantageous:** Contracts should be awarded on the basis of objective criteria which ensure compliance with the TEFU Principles and which guarantee that tenders are assessed in conditions of effective competition. This permits the use of one of two award criteria: "the most economically advantageous tender" (MEAT) or "the lowest price". The Procurement Board have determined that all procurements should be on the basis of MEAT with exceptions approved by the Head of Procurement of the relevant CoPE<sup>5</sup>.

Public procurement in Northern Ireland operates under twelve guiding principles:

1. **Accountability:** Effective mechanisms must be in place in order to enable Departmental Accounting Officers and their equivalents in other public bodies to discharge their personal responsibility on issues of procurement risk and expenditure;
2. **Competitive Supply:** Procurement should be carried out by competition unless there are convincing reasons to the contrary;
3. **Consistency:** Suppliers should, all things being equal, be able to expect the same general procurement policy across the public sector.
4. **Effectiveness:** Public bodies should meet the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement;
5. **Efficiency:** Procurement processes should be carried out as cost effectively as possible;
6. **Fair-dealing:** Suppliers should be treated fairly and without unfair discrimination, including protection of commercial confidentiality where required. Public bodies should not impose unnecessary burdens or constraints on suppliers or potential suppliers.
7. **Integration:** In line with the NI Executive's policy on joined-up government, procurement policy should pay due regard to the Executive's other economic and social policies, rather than cut across them.
8. **Integrity:** There should be no corruption or collusion with suppliers or others;
9. **Informed decision-making:** Public bodies need to base decisions on accurate information and to monitor requirements to ensure that they are being met;
10. **Legality:** Public bodies must conform to European Union and other legal requirements;
11. **Responsiveness:** Public bodies should endeavour to meet the aspirations, expectations and needs of the community served by the procurement.

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<sup>5</sup> Centre of Procurement Expertise

- 12. Transparency:** Public bodies should ensure that there is openness and clarity on procurement policy and its delivery.