



LMETB Procurement Policy

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LMETB PROCUREMENT POLICY

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2024.02	19/06/2024		<i>Incorporates updates regarding conflict of interest, confidentiality, ethics and connected parties.</i>

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ETB Procurement Policy

1 PURPOSE

The purpose of this document is to set out the policy for the procurement of goods (also referred to as supplies), services and works by ETBs and to ensure that procurement throughout ETBs is conducted in accordance with National and European Union Public Procurement Regulations & Directives, Legislation, Policy and Guidelines. There is an onus on public bodies to ensure that the public procurement function is discharged ethically, honestly, and fairly in a manner that secures best value for money. This policy should be read in conjunction with relevant ETB financial policies.

2 ABBREVIATIONS

OJEU: Official Journal of the European Union	C&AG: Comptroller and Auditor General
DoE: Department of Education	CWMF: Capital Works Management Framework
OGP: Office Government Procurement	EPS: Education Procurement Services
ETB: Education Training Board	DFHERIS: Department of Further and Higher Education, Research, Innovation and Science

3 PROCUREMENT OBJECTIVES

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Procurement means the acquisition, whether under formal contract or not, of works, supplies and services by ETB's. Procurement ranges from the purchase of routine supplies or services to formal tendering.

Procurement shall always be undertaken with the over-riding objectives of:

- Securing maximum Value for Money (VFM). VFM is not necessarily the cheapest option but rather the most economically advantageous. Effective planning, monitoring, appraisal and evaluation systems are critical to delivering on this objective.
- Complying with all relevant legislation and guidelines.
- Aligning with ETB's strategy
- Risk Management
- Aligning with sustainability and green objectives

In pursuing these objectives, ETBs also requires that:

- Competitive bidding and tender processes are performed
- Suppliers are appropriately selected and authorised for use
- Suppliers are monitored for financial and non-financial performance
- Works, goods and services are purchased only with proper authorisation
- Life cycle costing, which considers overall total cost, i.e., sum of acquisition and life cycle ownership cost of an item, is used rather than initial purchase cost

- Goods and services received are correctly recorded
- Payments are only made for goods and services received and authorised

4 PUBLIC PROCUREMENT PRINCIPLES

The Treaty of Rome on the functioning of the EU applies to all procurement activity regardless of value. The procurement of Goods/Supplies, Services or Works in the public sector must comply with the Treaty's fundamental procurement principles:

- **Transparency:** All procurement activities are open and transparent with necessary information provided to all. Procurement intentions and decisions should be advertised publicly.
- **Equal treatment and Non-Discrimination:** The same rules apply to all with equal rights of access. Decisions are to be based on objectivity and fairness.
- **Proportionality:** All measures used must be both necessary and appropriate in relation to the objective *i.e.* the award of contract. No excessive or disproportionate conditions, criteria, or rules are to be applied.
- **Mutual Recognition:** Equal validity is to be given to qualifications / standards applicable in other Member States.

5 GENERAL PRINCIPLES

The Procurement Policy recognises that decentralized purchasing is the most appropriate method to achieve the purchasing objectives within the ETB. Budget Holders must use suitable centrally negotiated contract agreements where they exist to maximise purchasing power for the whole ETB and to obtain optimum value for money. In specialist areas the subject matter expert will identify the technical requirements and specification and arrange competitive quotations and / or tenders as appropriate in agreement with the Procurement Department. Where centralised purchasing arrangements in the form of suitable Framework Agreements are available from either the Office of Government Procurement or the Education Procurement Service, these Framework Agreements will be utilised for procurement. If better value for money can be obtained from an alternative supplier benchmarked against an existing framework, budget holders must consult with ETB procurement departments and comply with procurement rules. Full records must be maintained with price and quality comparisons against the OGP existing framework supplier to justify this decision. The full cost of procurement should always be considered, and benchmarking should be on a like for like basis. The ETB is committed to the pursuit of excellence and recognises the importance of good procurement practice to obtain Value for Money, compliance & risk management and to ensure the ETB's funds are used to best effect.

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5.1 EU DIRECTIVE – ARTICLE 5.2

DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

Article 5.2 states "*that where a separate operational unit is independently responsible for its procurement, or certain categories thereof, the values may be estimated at the level of the unit in question*"

Please review in conjunction with Article 5.2 guidance document.

6 ACCOUNTABILITY

Procurement transactions and decisions must in all respects be fair, equitable and ensure value for money (VFM). Contracting Authorities must be able to justify decisions made and actions taken. All decisions may be subject to legal scrutiny. Procurement practices are subject to audit and scrutiny under the Comptroller and Audit General (Amendment) Act 1993 and Accounting Officers are publicly accountable for expenditure incurred. Contracting Authorities are responsible for establishing arrangement for ensuring the proper conduct of their affairs including conformance to standards of good governance and accountability with regard to procurement.

6.1 ETB BOARD¹

ETB management and ultimately the Board, should ensure that there is an appropriate focus on good practice in purchasing and that procedures are in place to ensure compliance with procurement policy and guidelines.

Section 8.13 of the Code of Practice for the Governance of ETBs states: “The Board should satisfy itself that procurement policies and procedures have been developed and published to all staff”.

6.2 EXECUTIVE MANAGEMENT

The Chief Executive is the Accounting Officer for the ETB. Reporting to the Chief Executive, the Director of Organisation Support and Development is responsible for the Governance and Management of the ETB’s administration and oversees the management of the ETB’s resources across the Human Resources, Corporate Services, Finance, Procurement, Land & Buildings and ICT Functions.

6.3 ROLE OF MANAGER WITH RESPONSIBILITY FOR PROCUREMENT

The Manager who is responsible for the administration of Procurement reports to the Director of OSD². The Manager is responsible for Procurement Policy and oversight of its implementation.

7 LEGISLATION

Purchasing within the ETB is subject to the legislative requirements of EU Regulation and Directives as embodied in, and enforceable via, Irish law.

1. Legislation (Directives, Regulations)
2. Government Policy (Circulars etc.)
3. Capital Works Management Framework for Public Works and Construction-related Services
4. General Procurement Guidelines for Goods and Services

The ETB is classified as a “Body Governed by Public Law – Sub Central” under the EU Public Sector due to the way in which it receives funding.

¹ From [Code of Practice for the Governance of ETBs](#)

² Director of Organisational Support and Development

EU Directives require that all purchase requirements (tenders) above “Threshold Values” are open to European Competition. Tenders with a value above the applicable Threshold Value must be published in the supplement to the Official Journal of the European Union (OJEU), and a set process with prescribed timescales for tendering etc. must be followed. Below threshold value requirements warrant a competitive process to satisfy the Irish Government Procurement Rules.

8 THRESHOLDS & APPROVAL LEVELS

8.1 TENDERING THRESHOLDS

A competitive process is the best method of securing value for public money and the thresholds below are the minimum standards required. The current thresholds for quotations and tenders are as follows:

Goods and Services		
Threshold	Requirements	Procurement Authority Level
€0 - ≤ €5,000	1 verbal (documented) or written quote	Budget Holder
> €5,000 - ≤ €50,000	At least 3 written quotes must be sought. eTenders may be used. Budget Holder must consult with the procurement department for anticipated spend > €15,000 and ≤ €50,000	Budget Holder for anticipated spend > €5,000 and ≤ €15,000 Director of OSD or CE for anticipated spend > €15,000 and ≤ €50,000
> €50,000 - ≤ €221,000	Tender - National	Director of OSD or CE
> €221,000	Tender - OJEU	Director of OSD or CE
Works		
Threshold	Requirements	Procurement Authority Level
€0 - ≤ €200,000	At least 5 written quotes must be sought. eTenders may be used.	APO Land & Buildings or Director of OSD or CE
> €200,000 - ≤ €5,538,000	Tender - National	Director of OSD or CE
> €5,538,000	Tender - OJEU	Director of OSD or CE
Works Related Services		
Threshold	Requirements	Procurement Authority Level
€0 - ≤ €50,000	Direct Invitation - at least 5 written quotes must be sought eTenders may be used.	Budget Holder in consultation with APO Land & Buildings Department
> €50,00 - ≤ €221,000	Tender - National	Director of OSD or CE

> €221,000	Tender - OJEU	Director of OSD or CE
Title III Services		
Threshold	Requirements	Procurement Authority Level
> €750,000	OJEU	Director of OSD or CE

Works:

The [Capital Works Management Framework](#) (CWMF) is a structure that has been developed to deliver the Government's objectives in relation to public sector construction procurement reform. It consists of a suite of best practice guidelines, standard contracts and templates documents that form the four pillars that support the Framework.

However, as the DoE are the main funding body for building works to ETB schools, the DoE have taken the CWMF documents and tailored them to suit school building (Works) projects. The following two guidance documents should be adhered to in terms of Procurement of Contractors to undertake minor works in schools where financed by the DoE:

1. [TGD007 Design Team Procedures for Small Works](#)
2. [Design Team Procedures – 2012 4th edition - Procurement of Contractors](#)

9 CORPORATE PROCUREMENT PLAN

As outlined in [Circular Letter 0002/2019](#) Code of Practice for the Governance of Education and Training Board, each ETB is required to "confirm that a Corporate Procurement Plan has been developed and is being implemented". To this end the ETB Sector agreed to adopt the Corporate Procurement Plan template, including MAPP (Multiannual Procurement Plan) and submit same each year to ETBI for sectoral collation and onward submission to the OGP/ EPS.

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10 CONFLICT OF INTEREST, CONFIDENTIALITY & ETHICS

Conflict of Interest (including any 'Registrable Interest' as defined in the Ethics in Public Office Act 1995) refers to situations in which personal interest may compromise, or have the appearance of, or potential for, compromising professional judgement and integrity and, in doing so the best interests of XXETB.

Contracting authorities are required to take "appropriate measures" to prevent, identify and remedy conflicts of interest in the conduct of a procurement procedure to avoid any distortion of competition and to ensure equal treatment of tenderers. A conflict of interest includes any situation where a relevant staff member has directly or indirectly a financial, economic or other personal interest which might be perceived to compromise his or her impartiality and independence in the context of the procurement procedure.

All steps necessary should be taken to ensure Confidential Information remains confidential. To ensure all information, fact, data and other matters of which knowledge is acquired, either directly or indirectly, as a result of activities, comply with current regulations. Use and application of all and any Confidential Information or data (including personal data as defined in the Data Protection Laws) is appropriately maintained and secured.

Separately, public officials who occupy “designated positions” for purposes of the Ethics in Public Office Acts 1995 and 2001 have a statutory obligation to furnish an Annual Statement of Interests disclosing any interest held by the person and any interests held, to the person's actual knowledge, by his or her spouse or civil partner, a child of the person, or a child of a spouse, which could materially influence the person in relation to the performance of his or her official functions.

In addition to the requirements under the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001, where a member of staff (including family members as set out in the local authority requirements) of an ETB has a pecuniary interest or other beneficial interest in, or material to, any contract, agreement or arrangement, or proposed contract, agreement or arrangement, to which the board is a party, that person shall:

- (a) disclose to the Chief Executive concerned his or her interest and the nature thereof;
- (b) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by members of staff of the board, as the case may be, in relation to it, or
- (c) not influence, or seek to influence, a decision to be made in the matter or make any recommendation in relation to the contract, agreement or arrangement.

This clause is also contained in the Policy Statement on Disclosure of Interest by staff and the Code of Practice for the Governance of ETBs.

Any form of personal interest which may impinge, or might reasonably be deemed by others to impinge, on an employee's impartiality in any matter relevant to his or her duties in relation to public procurement must be disclosed in writing. Personal interest includes an interest of a relative or connected person. A person is connected if that person is the individual's husband, wife or civil partner, or is a relative, or the husband, wife or civil partner of a relative of the individual or of the individual's husband, wife or civil partner.

Anyone seeking to initiate a procurement with a connected party will require prior approval of Director of OSD. Information that will be required to support a decision includes:

- Conflict of interest forms from all relevant parties
- A business case for the proposed use of a connected party.

All ETB employees involved in any way in the Procurement process shall act ethically and should have regard to other relevant policies and regulations including:

- i. Statement of policy ion disclosure of interest
- ii. Hospitality and Gifts Policy
- iii. Code of Conduct
- iv. Code of Practice for the Governance of ETBs

11 CONTRACT MANAGEMENT

Contracts are agreements that are legally enforceable regardless of the document title. The ETB must have a contract with suppliers to provide goods or services. The ETB's standard Purchase Order T&C (available on ETB Website) will apply to all good and services or until such time that a contract is signed. The basis of any agreement shall be the ETB/OGP/EPS standard legal agreements as adjusted to take account of the nature of the services/goods. The contract should enable the establishment of good working relationships, the investment (by both parties) of resources in delivering best in class goods or services in as efficient a way as possible.

12 LEASING

All leasing requires Board and DoE approval in advance of any lease agreement being entered into. Finance leasing is strictly prohibited.

Property leasing and Procurement related issues for Property Acquisition and Disposal of Surplus Property is set out in [DPER Circular 17/2016](#)

13 RECORD KEEPING

The ETB's Records Management and Retention Policy specifies the period for which records must be retained. All records should be maintained electronically.

All employees involved in purchasing on behalf of the ETB should comply with the requirements of all relevant and applicable legislation. This includes, but is not limited to, ETB Code of Governance, Public Spending Directives and Government Circulars.

14 CONNECTED PARTIES

In addition to the requirements under the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001, where a member of staff (including family members as set out in the local authority requirements) of an ETB has a pecuniary interest or other beneficial interest in, or material to, any contract, agreement or arrangement, or proposed contract, agreement or arrangement, to which the board is a party, that person shall:

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Anyone seeking to initiate a procurement with a connected party will require prior approval of Director of OSD. Information that will be required to support a decision includes:

- Conflict of interest forms from all relevant parties
- A business case for the proposed use of a connected party.

15 CONSEQUENCES OF NON-COMPLIANCE WITH PURCHASING POLICY AND PROCEDURES

This policy has been drafted to ensure the ETB meets its legal obligations. It and the related procurement procedures must both be complied with. Compliance is not open to individual discretion and any breach of the policy will be considered to be a serious matter and may include referral for investigation under the ETB's disciplinary procedures.

16 IMPLEMENTATION AND REVIEW

This policy will be re-reviewed biennially by the Chief Executive Forum in line with best practice, or in light of changes in legislation and guidance from sources such as OGP, Internal Audit, C&AG, the Department of Education, Department of Further and Higher Education, Research, Innovation and Science and the Department of Public Expenditure & Reform.

The date of implementation is 19/06/2024, which is the date of adoption by LMETB.