

**PUBLIC PROCUREMENT POLICY
STATEMENT TO THE ASSEMBLY
BY
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Introduction

1. With permission, Mr Speaker, I would like to make a statement on behalf of the Executive about public procurement policy. Members will be aware that in November 2000, and in line with commitments in the Programme for Government, the Executive agreed to establish a Procurement Review Team to review public procurement policy and purchasing arrangements in Departments and their non-Departmental Public Bodies.
2. The Procurement Review Team's Report was issued for public consultation last September to over 400 individuals and organisations. Members of the Team also met with the Finance and Personnel Committee to discuss their findings and recommendations. Responses to the consultation and views put forward by the Committee were considered by the Team and they were given the opportunity to clarify or amend their original recommendation

Public Procurement Policy

3. Mr Speaker, the Executive has recognised that there is a need for a more strategic approach to developing and implementing procurement policy, to ensure that Executive procurement expenditure which is around £1.2 billion per year, was being spent in the most effective and efficient manner, and to ensure that the policy had due regard to equality obligations. In today's climate of tight budgets and ever-increasing demand, it is critical that the Executive makes optimum use of the resources available to it.
4. The Executive has therefore agreed to a revised public procurement policy and plans to initiate more than seventy measures over the period to March 2005 to implement that policy. These measures are aimed at greater central guidance, collaboration and aggregation of procurement, with the objective of delivering increasing and sustainable value for money savings in the years to come.
5. The four main areas covered by the measures relate to:-
 - policy;
 - organisational structures;
 - procurement processes and practice;
 - and integration.

I intend to spend just a few minutes on the key points in each of these areas.

Policy

6. The definition adopted by the Executive describes Public procurement as "the process of acquisition, usually by means of a contractual arrangement after public competition, of goods, services, works and other supplies by the public service".
7. The acquisition process spans the whole life cycle from initial conception and definition of the needs of the public service through to the end of the useful life of an asset or the end of the contract. Both conventionally funded and more innovative types of purchases, such as Public Private Partnerships or

Private Finance Initiatives, are included within this definition, as is the use of the private sector to deliver services previously delivered directly by the public sector, otherwise known as contracting out of services.

8. Mr Speaker, the Executive also adopted twelve principles that will be the basis of Northern Ireland public procurement policy in the future. Departments, their non-Departmental Public Bodies and Public Corporations will be guided by these procurement principles. They are:-
 - o transparency in policy and its delivery;
 - o integrity, fairness and consistency when dealing with suppliers and potential suppliers;
 - o purchasing by competition unless there are convincing reasons to the contrary;
 - o responsiveness to the needs and aspirations of the community served by the procurement;
 - o compliance with EC and other legal requirements;
 - o in carrying out their work, the Executive expects procurement staff to be effective, meeting the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to each requirement, and to carry out procurement as cost effectively as possible;
 - o Accounting Officers and their equivalents in other bodies will continue to be personally accountable on procurement expenditure; and
 - o where appropriate, as part of the process of developing and implementing procurement policy, other government economic and social policies are to be integrated into procurement policy rather than cut across them.
9. During the consultation process some respondents expressed the view that the principles should contain an explicit reference to equality. While the Executive noted these concerns, Ministers believed that the principles are sufficiently clear and it is worth restating that the equality obligations of Section 75 of the Northern Ireland Act 1998 are already a duty on Northern Ireland public bodies in implementing procurement policy.
10. However, Mr Speaker, in applying these twelve principles and our equality obligations to procurement policy, public bodies need to bear in mind that the primary objective of the policy is "best value for money". This concept is central to public procurement policy but the Executive has not adopted a narrow definition and has defined it as "the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirements". Members should note that this definition encompasses and sums up the twelve principles and allows for the inclusion, as appropriate, of social, economic and environmental goals within the procurement process.
11. In adopting these twelve principles, the Executive acknowledged that they would have certain implications for the development of the strategy required to implement the new procurement policy, for example: -
 - o that wider economic, social and environmental strategies and initiatives of the Executive should become more closely integrated into the policy;
 - o that, in respect of strategic procurements and policy in general, public bodies should ensure that there is appropriate consultation with members of the public who will be directly affected by the outcome of the procurement and also with the wider community and other stakeholders in the procurement system;
 - o that, in order to optimise efficiency gains, greater emphasis should be placed on integrating the North/South, as well as the UK and European-wide procurement markets, and there should be greater collaboration between Northern Ireland public bodies to the extent that it meets the wider social, economic and environmental goals of procurement policy.
 - o that there is an urgent need to develop better management information systems, both to enable costs and savings to be measured and reported and to make for more informed decision making on procurement and equality matters.

Organisational Structures

12. Mr Speaker, given the financial importance of procurement policy, both in terms of total spend and in

relation to the Executive's budget, the Executive has agreed that a Procurement Board should be established and given responsibility for the development, dissemination and co-ordination of procurement policy and practice for the Northern Ireland public sector. The Board will be responsible to the Executive and accountable to the Assembly.

13. I will chair the Board in my capacity as Minister of Finance and Personnel and membership will, among others, be comprised of the Permanent Secretaries of the eleven departments. This high level membership from each department will ensure that there is compliance with the agreed policies and procedures in all Departments, their Agencies non-Departmental Public Bodies and public corporations.
14. A Central Procurement Directorate has been established to support the work of the Procurement Board and a new Director appointed. In formulating procurement policy and practices for the Board the new Procurement Directorate will consult with staff from a number of centres with specialist procurement expertise across the public sector.
15. The Executive will be considering the interface between this new approach to procurement in general and the particular issues of infrastructure investment that will fall to the new strategic investment body. However, the principle is clear that the strategic investment body will have a core role on planning and taking forward capital investment, including PPPs. But there is much detail to consider and agree before the new body can come fully into being and the general approach to procurement policy itself needs to be established and taken forward in the meantime.

Procurement Processes and Practices

16. Mr Speaker, the Procurement Board will be responsible for ensuring that a wide range of operational processes and practices are taken forward, as appropriate, with the aim of improving the efficiency and effectiveness of procurement activities both for contracting authorities and suppliers.

Integration with the Executive's other Policies

17. The Executive have adopted a policy of integration of economic, social and environmental policies within the new public procurement policy. During the public consultation on the Procurement Review Team's Report, most respondents accepted the need for integration. The integration of social policy drew the most comment and in particular a proposed pilot scheme to assist the unemployed back into work. The main reservations were that the scheme would increase costs to the contracting authority and that as outlined in the Report the scheme may prove difficult to implement.
18. The Executive acknowledged these concerns and recognised that the integration of social policy is a difficult area in the context of European Community and international procurement law, but nevertheless has decided to proceed with the development and implementation of the pilot in order to test whether these concerns are real and whether the proposal is worthwhile and workable. The pilot will cover 20 construction or service contracts with at least one from each Department and will last two years. It will not proceed until the details have been agreed with the Procurement Board. Prior to this, there will be discussions with the representatives of the industries affected, namely the construction and service sectors, and the Equality Commission, to ensure that the scheme is workable. The results of the pilot will be reported to the Executive to determine whether the policy will be mainstreamed or not.
19. Mr Speaker the Assembly will be aware that similar issues are under consideration by my Executive colleagues, Sir Reg Empey and Carmel Hanna. DETI have recently taken receipt of the West Belfast Jobs Taskforce Report while DEL are moving towards a conclusion of the work of the Taskforce on Employability and Long Term Unemployment. In moving ahead with the pilot project arising from this new procurement policy I will want to liaise with my colleagues to ensure, as far as possible, consistency of approach.
20. The Executive have also agreed that the Procurement Board should be tasked with taking forward other integration issues, namely: -

- encouraging and promoting the use of the special contracts arrangement to help disabled workshops;
- environmental purchasing;
- actions to assist small and medium sized enterprises to compete more effectively for procurement contracts;
- post contract award mechanisms, to provide assurance that contract conditions are adequately monitored, including an internal mechanism for considering and resolving complaints by third parties that contract conditions have not been honoured; and
- the development of a database of information for assessing the success of the integration policy.

Compliance

21. Mr Speaker, a key area, highlighted during consultation and discussions with the Finance and Personnel Committee was that of ensuring compliance both for public sector organisations and in respect of anti-discrimination legislation for suppliers.
22. While a few respondents argued strongly in favour of legislative compliance, the Executive agreed that legislation was not necessary to ensure that Departments and their non-Departmental Public Bodies complied because implementation can largely be achieved by means of administrative action through the membership of the Procurement Board. However, there would need to be amendments to the Education and Library Boards Order 1993 to enable that sector to comply with the proposals on integration.
23. As regards District Councils, their different and separate framework of accountability must be recognised and, under existing legislation, compliance will only be on a voluntary basis.
24. The Procurement Review Team were of the opinion that there was some uncertainty in current Northern Ireland legislation as to the extent to which the award of procurement contracts is subject to a requirement not to discriminate. The Executive has agreed that legislation should provide unambiguously that direct and indirect discrimination is prohibited in relation to procurement on the grounds included in current Northern Ireland anti-discrimination provisions and should provide for anti-discrimination provisions in the Disability Discrimination Act 1995.
25. In addition, equivalent sanctions, similar to those contained in the Fair Employment and Treatment Order 1998, will be introduced to prevent firms found guilty by a Tribunal or a Court of persistent and recalcitrant breach of anti-discrimination legislation from benefiting from public procurement contracts. The Executive agreed that these matters should be taken forward in the context of the Single Equality Bill.

Equality Impact Assessment

26. In developing this public procurement policy, an equality impact assessment of the policy has been carried out as required under Section 75 of the Northern Ireland Act 1998. The report stresses the limited quantitative data available on which to base the assessment. Using quantitative data and other sources of information brought to attention during the public consultation, my Department, having consulted the Equality Unit, has concluded that the new procurement policy will not be directly or indirectly discriminatory against any of the Section 75 categories. Indeed the policy could have a positive impact on equality of opportunity with regard to religious belief, political opinion, gender, and disability. In addition, the proposals are in line with the Executive's policy on targeting disadvantage and social need.

Conclusion

27. Mr Speaker, the Procurement Review Team's Report was issued to over 400 individuals and organisations for public consultation and the policy adopted by the Executive incorporates all of the recommendations contained in the Procurement Review Teams revised Report. The Executive has therefore agreed that it does not consider it appropriate to repeat the consultation process. However, given that the Executive has only approved the broad thrust of the policy, my Department is content to receive comments on how the policy might best be implemented.

28. I hope that this Statement has been helpful to Members in highlighting the main issues involved in the new procurement policy and the way forward. I am looking forward to chairing the first meeting of the Procurement Board, which is scheduled for early July. Implementation of the policy as it develops will require the co-operation and support of my Ministerial colleagues, if we are to achieve the optimum level of efficiencies and savings for the public sector. There is a lot to be accomplished and as I stated earlier, the new processes and practices will be implemented over a period to March 2005. A successful outcome would contribute greatly to assuring the general public that every effort is being made to ensure that best value for money is being obtained from this substantial element of Executive expenditure.