



Department of  
**Finance**  
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**CPD**

Procurement Guidance Note

**PGN 06/10**

(as amended)

# Construction Procurement Policy Framework

Reissued: 16 June 2016



## PROCUREMENT GUIDANCE NOTES

[Northern Ireland Public Procurement Policy \(NIPPP\)](#) was approved by the Northern Ireland Executive in 2002. In approving the policy, the Executive took the decision that legislation was not necessary to ensure that Departments, their Agencies, Non-Departmental Public Bodies and Public Corporations complied with the policy. Instead, it considered that compliance could be achieved by means of administrative direction.

Procurement Guidance Notes (PGNs) are the administrative means by which Departments are advised of procurement policy and best practice developments. They apply to those bodies subject to NIPPP and also provide useful guidance for other public sector bodies.

PGNs are developed by the Central Procurement Directorate (CPD), in consultation with the Centres of Procurement Expertise (CoPEs), and are subject to the approval of the Procurement Board.

Once endorsed by the Procurement Board, they are issued to the Departments for implementation and copied to CoPEs to develop, if necessary, underpinning procedures supporting the implementation of this guidance in their particular sector. PGNs are also published on the [Department of Finance \(DoF\) website](#).

**This PGN was endorsed by the Procurement Board with effect from 19 November 2010 for use by those bodies subject to NIPPP.**

### Revision History

First issued as PGN 06/10: Procurement of Construction Works and Services	19 November 2010
Revised and reissued as PGN 06/10: Construction Procurement Policy Framework	18 December 2015
Hyperlinks to PGNs refined and Clause 7.1.2 revised	09 February 2016
Reissued to reflect the restructuring of the Northern Ireland Government departments	16 June 2016

## LIST OF ABBREVIATIONS

<b>AE</b>	Achieving Excellence
<b>BREEAM</b>	Building Research Establishment Environmental Assessment Method
<b>BVfM</b>	Best Value for Money
<b>CEEQUAL</b>	Civil Engineering Environmental Quality Assessment
<b>CIFNI</b>	Construction Industry Forum for Northern Ireland
<b>CIGNI</b>	Construction Industry Group Northern Ireland
<b>CoE</b>	Centre of Expertise (for Programme and Project Management)
<b>DAO</b>	'Dear Accounting Officer' (letter)
<b>GCCG</b>	Government Construction Clients Group
<b>NDPB</b>	Non-Departmental Public Body
<b>NEC3</b>	New Engineering Contract (third edition)
<b>NIGEAE</b>	Northern Ireland Guide to Expenditure Appraisal and Evaluation
<b>NIPPP</b>	Northern Ireland Public Procurement Policy
<b>OGC</b>	Office of Government Commerce
<b>PCL</b>	Procurement Control Limit
<b>SME</b>	Small to Medium-sized Enterprise
<b>SSIP</b>	Safety Schemes in Procurement
<b>TFEU</b>	Treaty on the Functioning of the European Union
<b>Z Clauses</b>	additional clauses of NEC3 Engineering and Construction Contracts

## CONTENTS

<b>1</b>	<b>Introduction.....</b>	<b>7</b>
----------	--------------------------	----------

### PART A – POLICY THEMES

<b>2</b>	<b>Legal Structure for Construction Procurement .....</b>	<b>8</b>
<b>3</b>	<b>Policy Structure for Construction Procurement .....</b>	<b>9</b>
3.1	Introduction .....	9
3.2	Theme 1 – Northern Ireland Guide to Expenditure Appraisal and Evaluation .....	9
3.3	Theme 2 – Procurement through a construction CoPE.....	11
3.4	Theme 3 – The Gateway Review Process.....	11
3.5	Theme 4 – Achieving Excellence in Construction .....	12
3.6	Theme 5 – Sustainable procurement in construction .....	13
3.7	Theme 6 – Policy on Architecture and the Built Environment .....	14

### PART B – POLICY GUIDANCE

<b>4</b>	<b>Achieving Excellence in Construction.....</b>	<b>16</b>
<b>5</b>	<b>Design Quality.....</b>	<b>18</b>
5.1	Introduction .....	18
5.2	Benefits of design quality .....	18
<b>6</b>	<b>Building Information Modelling (BIM) .....</b>	<b>21</b>
<b>7</b>	<b>The Procurement Process .....</b>	<b>23</b>
7.1	Introduction .....	23
7.2	Procurement Control Limits and the basis for contract awards – PGN 04/12 .....	23
7.3	Constructionline registration .....	24
7.4	Financial standing .....	24
7.5	Selection of contractors and consultants for low value contracts .....	25

7.6	Simplified approach to procurement above £30,000 and below EU thresholds .....	26
7.7	Construction procurements with a value above the EU thresholds .....	27
7.8	Selection and pre-qualification of contractors .....	27
7.9	Selection process relating to experience timeframe.....	28
7.10	Evaluation of tenders – procedures and principles .....	29
7.11	Award of contracts without a competition.....	29
7.12	Insolvency during the procurement process .....	30
7.13	Abnormally Low Tenders (ALTs) for construction works contracts .....	30
7.14	Sub-economic tenders in construction professional services contracts ...	31
7.15	The Use of Grant for Procurement.....	31
<b>8</b>	<b>Construction Contracts (Works and Services) .....</b>	<b>32</b>
8.1	Standard forms of contract (NEC3).....	32
8.2	Choice of NEC3 Contract main options .....	33
8.3	Standardised Z Clauses for NEC3 Contracts.....	33
8.4	'No worse terms' in subcontracts .....	34
8.5	Liability and insurance in government contracts .....	34
<b>9</b>	<b>Contract Management .....</b>	<b>35</b>
9.1	Procedures and principles .....	35
9.2	Management of property maintenance contracts.....	35
9.3	Prompt payments in government construction contracts .....	36
9.4	Project Bank Accounts (PBAs) .....	36
9.5	Key Performance Indicators (KPIs) in government construction projects	37
<b>10</b>	<b>Health and Safety.....</b>	<b>38</b>
10.1	Buildsafe-NI .....	38
10.2	BuildHealth .....	40
10.3	Licence to Practice (LtP) initiative for electrical workers .....	40

<b>11 Sustainability in Construction Procurement .....</b>	<b>41</b>
11.1 Introduction .....	41
11.2 Equality of opportunity and sustainable development in public sector procurement.....	42
11.3 Northern Ireland Sustainable Development Strategy .....	42
11.4 Government Construction Clients' Sustainability Action Plan (2012-15)..	43
11.5 Sustainable Construction Guidance Notes .....	43
11.6 Integrating social considerations into contracts .....	44
11.7 Sustainability requirements - model contract clauses .....	45
11.8 Implementation of Article 6 of the EU Energy Efficiency Directive .....	46
11.9 Helping SMEs benefit from subcontracting opportunities.....	46
11.10 Procurement of timber and wood products .....	47
11.11 Environmental Management Systems .....	48
11.12 BREEAM and CEEQUAL.....	48
<b>12 Further Information .....</b>	<b>50</b>

### **Definition of Terminology**

In the preparation of this document, the term **contractor/supplier** has been used to denote an organisation that contracts directly with a Department, whether it is a supplier, a service provider or a construction contractor.

The term **Department** has been used to refer to those bodies subject to Northern Ireland Public Procurement Policy including Departments, Non-Departmental Public Bodies and Public Corporations. A full list of such bodies is available in Annex A of the [Northern Ireland Public Procurement Policy \(NIPPP\)](#).

## 1 INTRODUCTION

- 1.1 Since the review of Northern Ireland Public Procurement Policy in 2002, and the introduction of the *'Achieving Excellence in Construction'* initiative, there has been a wide range of policy developments relating to the procurement of construction works and services.
- 1.2 Typically, CPD and the Centres of Procurement Expertise (CoPEs) develop these policies through various task groups. They consult the Construction Industry Forum for Northern Ireland (CIFNI) where relevant. The Procurement Board has endorsed these policies, where they have been issued as formal Procurement Guidance Notes (PGNs).
- 1.3 This PGN provides Departments and CoPEs with best practice guidance and provides an overview of public sector construction procurement policy. It will help achieve *'Best Value for Money (BVfM)'* in the procurement and delivery of public sector construction projects.
- 1.4 As a compendium of construction procurement policy, only the key outputs as agreed by CPD, the CoPEs and CIFNI have been included. Further information and the rationale for developing a particular policy are not restated where other guidance supports that policy. Instead, the Framework document signposts readers to further details elsewhere.
- 1.5 This Framework document has two Parts:
- **Part A** outlines the strategic and overarching Policy Themes that are fundamental to construction procurement.
  - **Part B** identifies Policy Guidance which includes summary information and references to existing PGNs that are relevant to construction procurement.
- 1.6 Practitioners are advised to check the CPD section of the DoF website for the most up-to-date version of this PGN and Framework, and online for any references contained herein.

## PART A – POLICY THEMES

### 2 LEGAL STRUCTURE FOR CONSTRUCTION PROCUREMENT

- 2.1 Public procurement policy is a matter devolved to the Northern Ireland Assembly and the Executive. However, Northern Ireland Public Procurement Policy (NIPPP) must operate within the requirements of International, EU and UK procurement law.
- 2.2 Legal requirements include the principles of the Treaty on the Functioning of the European Union (TFEU) and the following EU Directives:
- [Public Sector: Directive 2014/24/EU](#) on public procurement and repealing Directive 2004/18/EC
  - [Concessions: Directive 2014/23/EU](#) on the award of concession contracts
  - [Utilities: Directive 2014/25/EU](#) on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC
- 2.3 The EU Directive 2014/24/EU on public procurement was transposed into law in England, Wales and Northern Ireland via [The Public Contracts Regulations 2015](#). These Regulations came into force on 26 February 2015.
- 2.4 At the time of writing, the Concessions and the Utilities EU Directives were yet to be transposed. The deadline for transposition is April 2016.
- 2.5 These legislative instruments are the context under which NIPPP and the Policy Structure for Construction Procurement have been developed.
- 2.6 The Treaty on the Functioning of the European Union (TFEU) details the role, policies and operation of the EU. The TFEU principles include non-discrimination, equal treatment, transparency, mutual recognition and proportionality. These principles apply to public procurement within member states.

### 3 POLICY STRUCTURE FOR CONSTRUCTION PROCUREMENT

#### 3.1 Introduction

3.1.1 Achieving BVfM is the primary objective of NIPPP. It is defined as the most advantageous combination of cost, quality and sustainability to meet customer requirements. In this context:

- **cost** means whole life cost;
- **quality** means a specification which is fit for purpose and sufficient to meet the customer's requirements; and
- **sustainability** means economic, social and environmental benefits.

3.1.2 The definition of BVfM should not be considered solely in relation to the goods, works or services being procured. It must also consider Government's wider sustainability objectives including the twelve guiding principles set out in NIPPP that govern public procurement policy. Northern Ireland public procurement professionals are required to meet these principles. When these principles are satisfied then BVfM is said to be achieved.

3.1.3 The Policy Structure for Construction Procurement includes PGNs relevant to construction. The PGNs are the administrative means by which the Northern Ireland Public Sector is advised of procurement policy and best practice developments. They are developed by CPD, in consultation with the CoPEs, and are subject to the approval of the Procurement Board.

3.1.4 The Policy Structure for Construction Procurement sets out six key themes arising from Northern Ireland Public Procurement Policy (NIPPP) which are of particular significance to construction works and services. These themes are described in the following sections.

#### 3.2 Theme 1 – Northern Ireland Guide to Expenditure Appraisal and Evaluation

3.2.1 The 'Northern Ireland Guide to Expenditure Appraisal and Evaluation' (NIGEAE) applies to all spending or saving of public money or

changes in the use of public resources. NIGEAE requires that all such proposals are supported by evidence of suitable appraisal, approval, management and evaluation. There are no exceptions to this general requirement. The [Northern Ireland Guide to Expenditure Appraisal and Evaluation](#) contains further details.

3.2.2 Section 10 of NIGEAE deals with the implementation, management and monitoring of proposals. Managing programmes and projects effectively is essential. It is vital Departments, their Agencies, Non-Departmental Public Bodies (NDPBs) and Public Corporations manage programmes and projects according to the latest best practice guidance. There are several strands to this guidance, including:

- the principles and procedures set out in the '*Achieving Excellence in Construction*' initiative guidance;
- the principles and procedures as set out in the PRINCE2 (Projects In a Controlled Environment) documentation;
- the Gateway Review Process;
- performance measurement, management and monitoring; and
- benefits management and realisation.

3.2.3 This Framework document and other PGNs produced by CPD elaborate on some aspects of the above guidance. Further details are available from [CoE – Successful Delivery](#).

3.2.4 As well as the requirements of Managing Public Money Northern Ireland (MPMNI), Departments should seek advice from a CoPE, at outline and subsequent business case stages, on construction infrastructure<sup>1</sup> project costs. This ensures costs are accurate, realistic and robust. Finance Directors must also robustly challenge major projects' costs and specifications - see the

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<sup>1</sup> Buildings, structures, civil engineering, public open space schemes and landscaping schemes.

'Dear Accounting Officer' letter [DAO (DFP) 06/14] which is available from [DAO 06/14 Infrastructure Action Plan Implementation](#).

### **3.3 Theme 2 – Procurement through a construction CoPE**

3.3.1 NIPPP requires that all public procurement is undertaken through a Service Level Agreement with CPD or through another CoPE. All construction-related contracts, irrespective of the value, must be procured through or under the delegated authority of a construction CoPE or via a Service Level Agreement with a construction CoPE.

3.3.2 A current list of bodies to which NIPPP applies is set out in Annex A of the [Northern Ireland Public Procurement Policy](#).

### **3.4 Theme 3 – The Gateway Review Process**

3.4.1 The Gateway Review Process provides an objective view of a programme or project's ability to deliver on time and to budget. It is not part of the programme or project management process. CPD manages the Gateway Review Process in Northern Ireland via its Centre of Expertise (CoE) for Programme and Project Management (PPM).

3.4.2 A Risk Potential Assessment (RPA) must be completed on all programmes and projects. This categorises programmes and projects into areas of low, medium or high risk. It determines whether they should be subject to a Gateway Review or to an Internal Peer Review conducted in line with Gateway principles.

Medium and high risk programmes and projects are subject to an external Gateway Review. This will also be mandatory for projects with a capital value of £20 million or more. Reviews are based on well-proven techniques leading to more effective delivery of benefits, and with more predicable costs and outcomes. [Gateway Review](#) gives further guidance.

3.4.3 Where the Accounting Officer does not make a specific ruling, PGN 03/09 sets out the *de minimis* value (£500,000) above which Risk Potential Assessments (RPAs) should be carried out. It also sets the value above which the Gateway Review Process is mandatory as follows:

- capital expenditure infrastructure programmes and projects with a capital value of £20 million or more; and
- other programmes and projects with a whole life total central government costs of £20 million
- this should be read in conjunction with PGN 01/09

Further information is provided in [PGN 03/09: Procedures and Principles for Application of Threshold Limits as Part of the Gateway Review Process](#).

3.4.4 All completed RPA forms are sent to the CoE. Where the risk level of a programme or project is medium or high, the CoE will review the assessment. If this risk level is confirmed, the CoE will arrange a Gateway Review, on behalf of the Senior Responsible Owner (SRO), using an experienced and impartial review team. Low risk programmes or projects are internally peer reviewed in line with Gateway principles by an independent team, appointed by the Department. Further information is provided in [PGN 01/09: Best Practice in Programme/Project Management](#).

## **3.5 Theme 4 – Achieving Excellence in Construction**

3.5.1 The '*Achieving Excellence in Construction*' initiative was endorsed by the Executive Committee of the Assembly.

3.5.2 The objective of the initiative is to make the public sector construction client a best practice client when procuring construction works and services. The initiative aims to:

- improve the management techniques adopted by clients;
- measure key aspects of performance;
- develop an integrated culture within project teams; and
- achieve maximum benefits from standardisation and new technologies.

3.5.3 Through the initiative clients commit to maximising, by continuous improvement, the efficiency, effectiveness and value for money of their construction projects. Key aspects include:

- partnering and the development of long-term relationships;
- reducing financial and decision-making approval chains;
- developing skills and empowerment;
- adopting performance measurement indicators; and
- using tools such as value and risk management and whole-life costing.

3.5.4 Implementing the '*Achieving Excellence in Construction*' initiative has delivered significant value for money gains in construction procurement. Details of the initiative and a link to its documents are available in Section 4 of this Framework document.

### **3.6 Theme 5 – Sustainable procurement in construction**

3.6.1 Equality of opportunity and sustainability are the underpinning principles of the Executive's approach to delivering its priorities under the *Programme for Government*.

3.6.2 The following three objectives have guided infrastructure investment; namely:

- **economic** – investment in infrastructure to help grow a dynamic and innovative economy and help to deliver modern high quality and efficient public services;
- **social** – using investment in infrastructure to help promote:
  - tolerance;
  - inclusion;
  - equality of opportunity and the desirability of good relations;
  - regional balance in future development; and
  - tackling areas of social disadvantage.
- **environmental** – investment in infrastructure to help protect and enhance the environment and natural resources.

3.6.3 These objectives are considered mutually reinforcing, thus helping to ensure development is sustainable.

3.6.4 A number of policy initiatives have been produced to help practitioners achieve their sustainability objectives. These are set out in Section 11 of this Framework document. The initiatives include integrating social considerations into public contracts and helping Small and Medium-sized Enterprises (SMEs) benefit from subcontracting opportunities.

### **3.7 Theme 6 – Policy on Architecture and the Built Environment**

In June 2006, the Department of Culture, Arts and Leisure (DCAL) published its policy on [Architecture and the Built Environment for Northern Ireland](#).

3.7.1 The policy aims to promote the value and benefit of good design in buildings and public open spaces. It also demonstrates the importance Government attaches to achieving the highest standards of design in publicly funded buildings and spaces.

- 3.7.2 At the heart of the policy is a demand for a step change in the quality of design, construction and performance of publicly funded development. This objective aligns closely with the '*Achieving Excellence in Construction*' initiative. Through advocacy, exemplar public sector projects and collaboration with key stakeholders, Government aims to challenge and inspire higher standards in the private sector.
- 3.7.3 A number of policy initiatives have been produced to help practitioners achieve design quality. These are set out in Section 5 of this Framework document.

## PART B – POLICY GUIDANCE

### 4 ACHIEVING EXCELLENCE IN CONSTRUCTION

- 4.1 The *'Achieving Excellence in Construction (AE)'* guide, published by the Office of Government Commerce (OGC), sets out the principles for managing construction projects. In June 2010, OGC was subsumed by the Efficiency and Reform Group (ERG) within the Cabinet Office. The Northern Ireland Executive endorsed the initiative. Departments, their Agencies, Non-Departmental Public Bodies and Public Corporations should have procedures to control construction projects which, as a minimum, include these principles. Where a Department applies more rigorous guidelines it should of course continue to do so.
- 4.2 The following table lists the current suite of AE guidance documents:

Achieving Excellence Documents	
	A Manager's Checklist
	Construction Projects Pocketbook
AE Guide 1	Initiative Into Action
AE Guide 2	Project Organisation
AE Guide 3	Project Procurement Cycle
AE Guide 4	Risk and Value Management
AE Guide 5	The Integrated Project Team
AE Guide 6	Procurement and Contract Strategies
AE Guide 7	Whole Life Costing and Cost Management
AE Guide 8	Improving Performance
AE Guide 9	Design Quality
AE Guide 10	Through Health and Safety
AE Guide 11	Sustainability

- 4.3 These guides are available in full, together with relevant case studies, on the archived OGC's webpage [Achieving Excellence in Construction Guidance](#).
- 4.4 The AE Guides represent best practice in modern construction procurement and management. To improve performance in quality, cost and time it is recommended that departments adhere to the processes set out in the Guides.
- 4.5 The principles set out in the AE Guides form part of a body of good project management practice. They are especially important for major projects involving considerable expenditure, but are relevant to projects of all values. Departments should exercise their judgement in applying the appropriate control measures to projects of different size and scope.

## 5 DESIGN QUALITY

### 5.1 Introduction

5.1.1 Good design is a key objective of the *'Achieving Excellence in Construction'* initiative and is a prerequisite for securing BVfM. The Procurement Board agreed in October 2004 that Departments should adopt a best practice approach to design quality.

5.1.2 The [OGC AE Guide 09 - Design Quality](#) explains the characteristics of good design and how to raise design quality through the procurement process. It sets out the importance of Design Reviews in managing the design process. It also recommends the use of Design Quality Indicators (DQIs) as a tool to assess design quality at key stages in the project procurement lifecycle.

5.1.3 In addition, CPD is currently developing a new PGN on the procurement of design teams in the Governments' infrastructure projects. The guide is expected to be available on the CPD section of the DoF website by February 2016.

### 5.2 Benefits of design quality

5.2.1 Design quality can be summarised as the combination of:

- **functionality** – how well the facility achieves its purpose;
- **impact** – how well the facility creates a sense of place; and
- **build quality** – the performance and durability of the completed facility.

5.2.2 Design quality is about more than style or appearance. It incorporates the key requirements of the business and its stakeholders. It also address *'whole life value'*, health and safety, sustainability and environmental impact.

5.2.3 There is increasing evidence demonstrating good design provides a host of benefits; for example:

- the best designed schools are considered to encourage children to learn;
- the best designed hospitals are considered to help patients recover their spirits and their health; and
- well designed public realms can help bring communities together.

5.2.4 Good design of construction projects can and should:

- respect and enhance the location, the environment and the community;
- add value and reduce '*whole life costs*';
- create flexible, durable, sustainable and ecologically sound development;
- minimise waste of materials and energy in construction and use;
- provide functional, efficient, adaptable spaces for home, work and recreation;
- be attractive and healthy for users and the public;
- use space, materials and resources with imagination and efficiency; and
- produce buildings and infrastructure projects which are safer to construct and easier to clean and maintain.

5.2.5 Early investment within the project lifecycle in design quality can help deliver these benefits. The cost of developing design is usually small compared with the '*whole life cost*' of projects. Yet it is through the design process that the largest impact can be made on these costs.

5.2.6 The '*Achieving Excellence in Construction*' initiative recognises, irrespective of the procurement route, that it is essential to achieve good design quality.

Early involvement of the construction team in the project allows issues such as construction techniques, programming, buildability and risk management to be more fully addressed at the design stage, when key decisions are made. This increases the likelihood of successful delivery of the project and BVfM.

## 6 BUILDING INFORMATION MODELLING (BIM)

- 6.1 BIM enables anyone to understand a structure or building through the use of a digital model. Modelling an asset in digital form allows those who interact with the project to optimise their actions, resulting in a greater value over the whole life of the asset. A Procurement Guidance Note on BIM ([PGN 03/15: Building Information Modelling](#)) is available from the CPD section of the DoF website.
- 6.2 BIM brings together all of the information about every component of a structure or building, in one place. It makes it possible for anyone to access that information for any purpose, for example, to integrate different aspects of the design more effectively. This reduces the risk of mistakes and discrepancies, and minimises abortive costs.
- 6.3 BIM data can be used during the entire asset life cycle, from inception and design to demolition and materials re-use. Spaces, systems, products and sequences can be shown in relative scale to each other and, in turn, relative to the entire project. By detecting clashes, BIM prevents errors creeping in at the various stages of development/construction.
- 6.4 Consequently, BIM has the potential to contribute significantly to achieving BVfM in the design, delivery, maintenance and operation of construction projects. Therefore, Northern Ireland Public Procurement Policy requires BIM Maturity Level 2<sup>2</sup> on all public sector construction projects which have values above the EU thresholds from 1 April 2016. This requirement will only apply where implementing BIM will deliver efficiency savings. Departments may choose to apply BIM to projects which have values below the EU thresholds at their own discretion.
- 6.5 The UK Government has estimated savings<sup>3</sup> to the UK construction industry and its clients of £2 billion per annum through the widespread adoption

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<sup>2</sup> There are four levels of BIM Maturity, ranging from Level 0 (the most basic level) to Level 3 (the most complex).

<sup>3</sup> HM Government, Industrial Strategy: Government and Industry in Partnership, Building Information Modelling (BIM)

of BIM. BIM is therefore a significant tool for Government in the delivery of savings in its infrastructure projects.

- 6.6 It is estimated that BIM will derive maximum efficiency savings to client organisations during the operational phase of a project's lifecycle. It forms a single repository for all information pertaining to a project's (building's) operational and maintenance (O&M) needs. The success of BIM is dependent on contract documents including requirements for the delivery of information for O&M activities.

## 7 THE PROCUREMENT PROCESS

### 7.1 Introduction

- 7.1.1 The process for all construction procurements will be informed by the nature of the construction contract being procured; that is construction works or services. It will also be informed by its value, scale and complexity.
- 7.1.2 In October 2005, the Procurement Board agreed that Departments would implement the recommendations of '*Achieving Excellence in Construction – Procurement Guide 06 – Procurement and Contract Strategies*'. In particular, all Government Construction Clients will develop procurement and contract strategies aligned to the preferred integrated procurement routes (PFI, Prime Contracting or Design & Build). Traditional procurement routes will only be used if they demonstrably add value in comparison to the three recommended routes.
- 7.1.3 The following sections provide an outline of the relevant procurement guidance that is available. While not all of this guidance may be relevant to all procurements, links are provided to each guidance note.

### 7.2 Procurement Control Limits and the basis for contract awards – PGN 04/12

- 7.2.1 Having established the nature and value of the construction contract, the Procurement Control Limits (PCLs) should be used to determine the procedures which should be applied. The PCLs are designed to ensure:
- an effective competition, which achieves and demonstrates BVfM;
  - a balance is struck between the value of the contract and the transactional cost of undertaking the procurement procedures; and
  - proportionate procedures are taken for low value procurements.
- 7.2.2 The Procurement Control Limits are detailed in [PGN 04/12: Procurement Control Limits and the Basis for Contract Awards](#).

7.2.3 It should be noted that other departmental procurement control limits may need to be observed. For example, those limits specified by DFP Accountability and Financial Management Division's (AFDM) 'Dear Accounting Officer' and 'Dear Finance Director' letters. These letters are available on [DFP Accountability and Financial Management Division](#).

### **7.3 Constructionline registration**

7.3.1 Constructionline is a national database of suppliers pre-assessed for work within the public sector. Further details are available from [www.constructionline.co.uk/](http://www.constructionline.co.uk/).

7.3.2 Contractors and consultants wishing to bid for Government construction contracts with values below the EU thresholds must be registered with Constructionline.

7.3.3 Contractors and consultants who are not registered with Constructionline will still be able to apply for construction contracts which have values above the EU thresholds. However, they will be required to submit their accounts and other financial information as part of the pre-qualification process. Registration with Constructionline will, however, streamline the process. Firms not currently registered may wish to become registered to avoid duplication and to simplify the submission of future Pre-Qualification Questionnaires (PQQs).

### **7.4 Financial standing**

7.4.1 A contractor's Constructionline Category Value (notation for a particular category of work) must be at least equal to the annual projected spend under the contract (for example, a £20 million project of 24 months duration would require a Category Value of £10 million; a £500,000 project of 6 months would require a Category Value of £500,000). This will be assessed on a pass/fail basis.

7.4.2 A consultant's Constructionline Category Value must be at least equal to the annual projected fee-spend under the contract. This will be assessed on a

pass/fail basis (for example, a commission with a fee of £1 million over 24 months would require a fee Category Value of £500,000; a commission with a fee of £100,000 over 6 months would require a Category Value of £100,000).

7.4.3 In the case of a Group of Economic Operators, the combined Constructionline Category Value of the Group's members must be at least equal to the annual project-spend under the contract. The Lead Enterprise for the Group shall have a Category Value of no less than 40% of the annual project-spend (for example, a firm with a Category Value of £4 million or more could perform the role of Lead Enterprise of a Group of Economic Operators for a project requiring a category value of £10 million).

## **7.5 Selection of contractors and consultants for low value contracts**

7.5.1 In accordance with the PCLs set out in [PGN 04/12](#), contracts with a value less than £30,000 need not be publicly advertised. However, the optimum number of valid tenders must be received to ensure:

- the efficient transaction costs of procurement procedures; and
- a sufficient number of suppliers is maintained to achieve BVfM through competition.

7.5.2 For very small projects (works and services values below £30,000), those to be invited to tender can be selected from the Constructionline Database. The CoPE uses the Constructionline Database to generate a 'long list' based on the following criteria:

<b>Constructionline <i>Long List</i> Criteria</b>
Works Category
Works Sub-Category
Category Value (minimum required for contract).
Maximum Category Value (could be used to focus selection on smaller firms where appropriate).
For works, a valid certificate of a documented Health & Safety management system which satisfies the Buildsafe-NI Initiative. The certificate is issued by a provider listed on DFP's website.
A valid health and safety competence assessment certificate issued by a scheme member organisation of the SSIP (Safety Schemes in Procurement) Forum.
Registration with trade bodies/professional bodies (if desirable).
Geographical restriction by post codes (if required)

7.5.3 The CoPE then uses the Constructionline Database to randomly select a shortlist of tender invitees in accordance with the PCLs. Further information is provided in [PGN 04/10: Selection and Pre-Qualification of Contractors](#).

## **7.6 Simplified approach to procurement above £30,000 and below EU thresholds**

7.6.1 In Northern Ireland, procurements with values below the EU thresholds are not subject to the detailed requirements and procedures set out in the EU Procurement Directives or in the corresponding Public Contracts Regulations. However, where there is a cross border interest in the procurement it must comply with the fundamental EU Treaty principles.

- 7.6.2 Bodies subject to NIPPP must comply with the 12 Procurement Principles within the policy. These include the principles of transparency and competitive supply. Further information is provided in [PGN 05/12: Simplified Approach to Procurement Above £30,000 and Below EU Threshold](#).
- 7.6.3 The value of the procurement is estimated before deciding on whether this guide is applicable. The estimated value of a contract must be calculated over its life (including any contract extension options), but excluding VAT.
- 7.6.4 The approaches adopted for construction works and services procured on an individual basis, are set out in Annexes C and D of PGN 05/12 respectively.

## **7.7 Construction procurements with a value above the EU thresholds**

- 7.7.1 Government construction contracts with values above the EU thresholds are subject to the Public Contract Regulations. The procurement of these contracts will normally follow the 'restricted procedure', wherein a Pre-Qualification Questionnaire (PQQ) is used to shortlist those suppliers invited to tender.
- 7.7.2 It is policy that Government construction contracts which have values above the EU thresholds are awarded on the basis of the Most Economically Advantageous Tender using a best price-quality ratio. Construction contracts which have values above the EU thresholds should only be awarded on the basis of price/cost if they are very simple projects. Where price/cost is to be used as the sole basis for awarding the contract, the rationale should be clearly set out in the procurement strategy and signed off by the Head of CoPE.

## **7.8 Selection and pre-qualification of contractors**

- 7.8.1 Applicants for public contracts must be suitable in terms of their legal standing, financial status and technical capacity necessary to deliver the contract.

7.8.2 Pre-Qualification Questionnaires (PQQs) provide a structured means of capturing the information required for the selection process. They help to make the selection process more manageable, transparent and efficient for all parties. PQQs also allow Departments to limit the number of contractors invited to tender (or participate in the dialogue or negotiation stages). Contractors are ranked and those shortlisted are then invited to tender.

7.8.3 Government and industry has, through CIFNI, endorsed standard PQQ templates for construction-related contracts. The CoPEs have agreed to use PQQs based, as far as practicable, on the CIFNI template PQQs.

7.8.4 Standard template PQQs for construction works and for construction services above the EU thresholds are available on CPD's website:

- [above threshold pre-qualification documents for construction works projects](#)
- [above threshold pre-qualification documents for construction services](#)

7.8.5 Guidance is also available showing how the selection stage of a procurement process is carried out effectively and efficiently. The guide also explains how the use of PQQs can be an integral part of this process and is available from [PGN 04/10: Selection and Pre-Qualification of Contractors](#).

7.8.6 As the implementation of eTendersNI progresses, Project Managers will be able to input information to PQQs and Invitations to Tender (ITTs) online and to publish. Templates are available for above and below EU threshold values and are based on the Government and industry agreed template PQQs. Suppliers will also be able to complete and submit PQQs online.

## **7.9 Selection process relating to experience timeframe**

7.9.1 The Public Contracts Regulations permit a Contracting Authority to assess an Economic Operator's technical and/or professional ability by reference to completed works carried out over the past five years (or three years for services).

7.9.2 Due to the current economic downturn, Economic Operators find it increasingly difficult to provide evidence of competency and experience within this timeframe.

7.9.3 The timeframe for experience on construction works and services contracts was therefore extended following consultation with the construction industry to seven years. Further information is provided in [PGN 02/13: Selection Process Relating to Experience Time Frame](#).

## **7.10 Evaluation of tenders – procedures and principles**

The evaluation of tenders is a crucial stage in the overall procurement process. A CoPE or a public body (to which NIPPP applies) engaged in procuring goods, works or services must ensure the evaluation of award criteria complies with EU and UK law, NIPPP and appropriate standards of probity. Further details are in [PGN 02/09: Procedures and Principles for the Evaluation of Tenders](#).

## **7.11 Award of contracts without a competition**

7.11.1 The award of a contract without a competition runs contrary to the TFEU key principles of transparency and openness. It also runs contrary to NIPPP principles of transparency in all procurements.

7.11.2 A Direct Award Contract (DAC) occurs when a contract is awarded to a contractor without a competition. Although widely used, this term is not defined in the EU Directives or UK Procurement Regulations.

7.11.3 Contracts awarded without a competition require Accounting Officer's approval. The Accounting Officer may delegate approval where contracts are below EU threshold values. However, there are circumstances that are not regarded as DACs and, therefore, do not require Accounting Officer approval. Further information is provided in [PGN 03/11: Award of a Contract Without a Competition](#).

## **7.12 Insolvency during the procurement process**

7.12.1 The economic downturn has led to a more difficult trading environment. This brings with it an increased risk of insolvency of Economic Operators involved in government contracts.

7.12.2 Where insolvency does occur, it can have an adverse affect upon contract delivery. It can also have implications for the other members of the supply chain. Many will be owed money by the insolvent Economic Operator.

7.12.3 The Public Contracts Regulations and the Utilities Contracts Regulations permit, as an option, the exclusion of insolvent Economic Operators from the procurement process. Insolvency includes Individual and Company Voluntary Arrangements (IVA/CVA). Further information is provided in [PGN 04/13: Insolvency in the Procurement Process](#).

## **7.13 Abnormally Low Tenders (ALTs) for construction works contracts**

7.13.1 The current economic downturn has created a difficult trading environment for contractors, with fewer tender and contract opportunities available. As a result, some firms are prepared to submit abnormally low tender prices in an effort to gain contracts. Such practices:

- significantly increase the risk of poor contract performance;
- create difficulties within supply chains; and
- have a damaging effect on the industry.

7.13.2 However, contractors may choose, on occasion, to submit an abnormally low tender for commercial reasons. Regulation 69 of the Public Contracts Regulations 2015 requires Contracting Authorities to seek an explanation from tenderers where the tender price appears abnormally low. Further information is provided in [PGN 03/13: Abnormally Low Tenders](#).

## **7.14 Sub-economic tenders in construction professional services contracts**

7.14.1 Similar to contractors, some construction consultants are prepared to submit sub-economic tender prices. Such practices are unsustainable and significantly increase the risk to Government of poor contract performance. Further information is provided in [PGN 07/14: Sub-Economic Tendering in Construction Professional Services Contracts](#).

7.14.2 This guide applies to tenders for construction professional services contracts that have a pre-tender estimated contract value above £5,000 and below the value of the EU threshold for construction services.

7.14.3 The guide has been implemented on a pilot basis. It will be kept under review and will, if necessary, be updated following feedback from the pilot.

## **7.15 The Use of Grant for Procurement**

7.15.1 [PGN 01/07: The Use of Grant for Procurement](#) provides advice to Departments to ensure that grant funding (used for procuring goods, works or services by the Department or by a grant recipient) is spent in accordance with procurement law and policy, where appropriate.

7.15.2 Sponsor Departments and other Contracting Authorities need to ensure that they, and grant recipients, follow the correct procurement procedures and in proportion to the amount of funding involved. Further information is provided in [PGN 01/07: The Use of Grant for Procurement](#).

7.15.3 At the time of writing, PGN 01/07 is under review to provide additional clarity to issues such as *'when grant is for procurement and when it's not'*.

## **8 CONSTRUCTION CONTRACTS (WORKS AND SERVICES)**

### **8.1 Standard forms of contract (NEC3)**

8.1.1 In May 2006, the *Procurement Board* agreed to adopt NEC3 as the preferred form of contract for construction works and services undertaken by Departments, their Agencies, Non-Departmental Public Bodies and Public Corporations.

8.1.2 NEC3 is a modern suite of standard contracts which uses sound project management principles and practices as well as defining legal relationships. The suite complies fully with the 'Achieving Excellence in Construction' principles of collaboration, partnership and team working. It permits the appropriate allocation of risk between contractor and client. It also enables the same form of contract and conditions for subcontracts within the supply chain ensuring efficiency throughout.

8.1.3 The family of standard contracts has the following characteristics:

- its use stimulates good management of the relationship between the two parties to the contract and, hence, of the work included in the contract;
- it may be used in a wide variety of commercial situations, for a wide variety of types of work and in any location; and
- it is a clear and simple document using language and a structure which are straightforward and easily understood.

8.1.4 Other forms of contract may be used for construction works or services but only if they demonstrate added value compared with NEC3 and only following approval by the Head of CoPE. Additionally, the Northern Ireland Housing Executive (NIHE) is required to seek approval from its Departmental Accounting Officer should it wish to deviate from the NEC3 form of contract.

## 8.2 Choice of NEC3 Contract main options

- 8.2.1 The main option selection in the NEC3 Engineering and Construction Contract (ECC), and some other NEC3 forms of contract, controls the allocation of financial risk between the Employer and Contractor. It also controls the level of flexibility for change, and cost certainty, available. BVfM is delivered through ensuring that risk within a contract is placed with those best able to manage it. To require a contractor to accept the financial risk for matters which it cannot control will increase tender costs and normally provide poor value for the Employer.
- 8.2.2 Guidance on the selection of the appropriate contract main options is available in *NEC Managing Reality, Book 2* available from the NEC Bookshop. A description of the contract main options and their relative benefits is available in the *NEC ECC Guidance Notes* also available from the bookshop on the [NEC website](#).

## 8.3 Standardised Z Clauses for NEC3 Contracts

- 8.3.1 In the NEC3 suite of standard contracts, Z clauses are additional conditions of contract. Departments can use them to include new policy requirements and where necessary transfer risk. These additional clauses enable the parties to agree specific needs relating to a project or type of project. Further information is provided in [PGN 01/15: Standardisation of NEC3 \(ECC\) Z Clauses](#).

8.3.2 The guide was developed to:

- create a standardised suite of Z clauses from which Contracting Authorities should not deviate;
- establish clear and unambiguous wording for each Z clause which reduces risks as a result of poor drafting;
- guide on the use of Z clauses to ensure the appropriate allocation of risk; and
- be suitable for use with both Engineering and Construction Contract (ECC) and Engineering and Construction Short Contract (ECSC) NEC 3 forms of contract.

#### **8.4 'No worse terms' in subcontracts**

Main contractors should be required, through contract conditions, to ensure that particular terms and conditions included in the contract between them and a Department (for example: prompt payment, warranties, insurance, liability, security, confidentiality, indemnities and termination arrangements) are directly reflected in the terms agreed between the main contractor and its first tier subcontractors. Further details are in Section 3.1.6 of [PGN 06/12: Helping SMEs Benefit from Subcontracting Opportunities in Government Contracts](#).

#### **8.5 Liability and insurance in government contracts**

Departments need to consider whether, and to what extent, contractor liability should be limited or excluded in public contracts. When contractor liability is included, Departments must also consider the levels of insurance that should be required. Limiting or excluding liability should be considered on a case by case basis. It is essential that BVfM is included when considering liability and insurance requirements. Further information is provided in [PGN 03/12: Liability and Insurance in Government Contracts](#).

## **9 CONTRACT MANAGEMENT**

### **9.1 Procedures and principles**

- 9.1.1 Good management of the operational phase of the procurement cycle delivers successful contracts. It ensures all parties fully meet their respective obligations as efficiently and effectively as possible. Contract management aims to achieve continuous improvement in performance over the life of the contract.
- 9.1.2 The reputation of a Department and a contractor can be damaged by a poorly managed contract that does not deliver the required results. Further information is provided in [PGN 01/12: Contract Management Procedures and Principles](#).
- 9.1.3 The guide includes a protocol for dealing with poor contractor performance. Continued poor performance cannot be ignored. Departments should, through appropriate monitoring and management, work with the contractor to ensure it performs as required.

### **9.2 Management of property maintenance contracts**

- 9.2.1 Departments require property maintenance contracts to ensure the condition of their estates are preserved at an acceptable standard. These contracts can be susceptible to fraud, corruption and other irregularities. This is primarily because such contracts typically consist of a high volume of low value transactions. Further information is provided in [PGN 01/14: Best Practice in the Management of Property Maintenance Contracts](#).
- 9.2.2 The guide assists Departments achieve best practice in managing property maintenance contracts. It includes measures to mitigate the risk of the weaknesses highlighted above.

### 9.3 Prompt payments in government construction contracts

- 9.3.1 Government recognises that enterprises of all sizes can benefit from government contracts either as a main contractor or as part of the supply chain. Accordingly, the '*Code of Practice for Government Construction Clients and their Supply Chains*' was extended to include a 'Fair Payment Charter'. The Charter is signed by the client, contractors and subcontractors and is available from the [Code of Practice for Government Construction Clients and their Supply Chain](#).
- 9.3.2 Main contractors must also report to the Project Manager (PM) at each project meeting on payments made to supply chain members. PMs should also carry out periodic checks with subcontractors on the payment performance of the main contractor. The reporting templates can be found at Annexes 1 and 2 of the [CIFNI Requirements for Sustainable Construction Procurement](#).
- 9.3.3 Appropriate contract conditions should be used to ensure that equally favourable payment terms, to those which the Department provides to the main contractor, are passed on by the main contractor to subcontractors. Further details are in Section 3.1.4 of [PGN 06/12: Helping SMEs Benefit from Subcontracting Opportunities in Government Contracts](#).

### 9.4 Project Bank Accounts (PBAs)

- 9.4.1 A PBA is a ring fenced bank account. The main contractor and members of its supply chain are paid directly and simultaneously from the account. In doing so a PBA facilitates prompt payment to the supply chain.
- 9.4.2 Following a review of PBA pilot projects it has been agreed that, from 1 January 2016, PBAs will be used in all Government construction contracts which have an estimated value exceeding £2 million and which contain a significant subcontracting element.
- 9.4.3 To ensure a consistent approach, separate Step by Step Process Guides have been developed for central Government and non-central Government

projects. Further information is provided in [PGN 03/14: Construction Works Procurement - Project Bank Accounts](#).

## **9.5 Key Performance Indicators (KPIs) in government construction projects**

- 9.5.1 The 'Achieving Excellence in Construction' initiative requires Departments to demonstrate year on year improvement in their construction procurement processes by use of Key Performance Indicators (KPIs).
- 9.5.2 KPIs required for Government construction projects are under review. Details of the procedure for collecting and reporting KPIs will be provided when the review is complete.
- 9.5.3 It should be noted that other departmental KPIs may also need to be monitored and recorded, for example, OFMDFM project/programme KPIs.

## 10 HEALTH AND SAFETY

Government clients should create an environment which delivers excellence in health and safety through all stages of the project. Health and safety is important not just for those construction workers on site, but also for those who will use, occupy, operate and maintain the building/structure, open space or facility. The following sections outline some of the initiatives that Government and industry have adopted to enhance health and safety in construction projects.

### 10.1 Buildsafe-NI

10.1.1 Buildsafe-NI is a joint initiative by Government and industry to promote safety awareness on construction sites. It launched in April 2003, as a five year initiative, under the auspices of CIFNI. A steering group took the initiative forward. The group comprised representatives from:

- Government Construction Clients Group;
- Construction Industry Training Board (CITB);
- Construction Industry Group Northern Ireland (CIGNI);
- trade unions (Union of Construction, Allied Trades and Technicians - UCATT); and
- Health and Safety Executive for Northern Ireland (HSENI).

10.1.2 In supporting the initiative, the Government construction clients use the procurement process to promote the importance of improving health and safety performance in Northern Ireland.

10.1.3 At the end of the five year period, a broad commitment continued by all the stakeholders to improve health and safety in the construction industry. It was agreed that the public and private sectors, in partnership, would develop and embed separate action plans to improve health and safety under the existing CIFNI structural arrangements.

10.1.4 A number of changes have occurred within public sector procurement since the introduction of the initiative, including the following:

- The introduction of the Construction (Design and Management) Regulations (NI) 2007.<sup>4</sup>
- The Procurement Task Group Report and the development of a standard process for assessing contractors' health and safety competency.
- The requirement for a valid health and safety competency assessment certificate issued by an organisation that is a scheme member of the SSIP Forum. From 1 April 2014, a valid certificate issued by a SSIP member is mandatory for firms tendering for construction contracts below the EU threshold values.

10.1.5 In taking the Buildsafe-NI initiative forward, the Government Construction Clients Group (GCCG) developed a new Buildsafe-NI Action Plan 2011. The action plan recognises the above changes and it further enhances performance improvements in the following areas:

- evaluation of supply chain health and safety capability;
- certification of health and safety management systems;
- training; and
- monitoring and reporting.

10.1.6 Government Construction Clients shall comply with the requirements of the [BuildSafe-NI Government Construction Clients Action Plan 2011](#).

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<sup>4</sup> The CDM Regulations 2007 have been updated, in Great Britain, by the CDM Regulations 2015. The application of the updated Regulation to Northern Ireland is currently being considered by the Health and Safety Executive Northern Ireland.

## **10.2 BuildHealth**

10.2.1 The BuildHealth initiative seeks to promote awareness of health issues in the construction industry in Northern Ireland. The initiative includes both occupational and personal health matters and is directed at employers and employees.

10.2.2 To date, Government Construction Clients have not adopted the BuildHealth initiative. However, a section on health has been included in the 'Contractor Health and Safety Report' required under the Buildsafe-NI initiative. Government construction clients shall comply with this requirement. Further details are on the [BuildHealth website](#).

## **10.3 Licence to Practice (LtP) initiative for electrical workers**

10.3.1 Since February 2014, CPD has piloted a Licence to Practice (LtP) initiative on specific Government construction works contracts. The Initiative requires electrical contractors that are working on the pilot projects to register with an online Licence to Practice system. By providing the main contractor and the Government client with access to the LtP system (free of charge), they are able to view the labour composition of the electrical contractor's workforce. This allows Government to identify individual electrical workers and their corresponding electrical licence type. The initiative seeks to ensure that only those electrical operatives who are licensed to practise will be deployed on site. Following a review of the LtP pilot, CPD recommended the wider adoption of the LtP initiative to all appropriate Government construction procurements. This proposal was supported by the Construction Industry Forum for Northern Ireland (CIFNI). The wider roll out of the LtP initiative is expected to commence from January 2016.

10.3.2 One example of an LtP system is SparkSafe. The [SparkSafe LtP website](#) gives further information and access to its online management system.

## 11 SUSTAINABILITY IN CONSTRUCTION PROCUREMENT

### 11.1 Introduction

11.1.1 In summary, sustainable construction is about building, engineering and refurbishment projects that promote environmental, social and economic gains now and for the future, helping to create a better quality of life today and for generations to come. It is concerned with both what is built and maintained, and how it is built and maintained.

11.1.2 Sustainable construction is also the set of processes by which a profitable and competitive industry delivers built assets (buildings, structures, supporting infrastructure and their immediate surroundings) that:

- enhance the quality of life and offer customer satisfaction;
- offer flexibility and the potential to cater for user changes in the future;
- are environmentally, socially and economically friendly, providing and supporting desirable natural and social environments;
- maximise the efficient use of resources reducing reliance on our rapidly diminishing natural resources and conserving virgin materials; and
- Develops the skills needed by a competitive construction industry and provides communities with access to work in the industry.

11.1.3 The promotion of sustainable construction is a major part of the Government's policy on Sustainable Development, which recognises that our economy, environment and social well being are interdependent. Sustainable construction covers and contributes to themes often described as "social requirements and/or wider community benefits".

11.1.4 It is also about minimising waste, pollution, noise and traffic. Furthermore, it is about providing a safer working environment for all involved in the construction, maintenance, use and eventual removal of buildings/structures or facilities.

## 11.2 Equality of opportunity and sustainable development in public sector procurement

- 11.2.1 Under the auspices of the Procurement Board, CPD and the Equality Commission for Northern Ireland published guidance ([Equality of Opportunity and Sustainability Guidance](#)) on how to integrate equality and sustainable development considerations into the procurement process. The guide, launched on 29 May 2008, applies to all public sector procurement, including Public Private Partnerships and Private Finance Initiative projects. It is aimed at policy makers and procurement professionals.
- 11.2.2 The main guide, supported by a summary document, gives an overview of the key points to consider. It is accompanied by a 'Dear Finance Director' letter [[FD \(DFP\) 11/14](#)] - Assessing and Documenting Sustainable Development in Business Cases for Procurements and a 'Dear Accounting Officer' letter [[DAO \(DFP\) 05/08](#)] which advise recipients that the guidance should be taken into account when preparing business cases.
- 11.2.3 It is for individual Departments to determine how best to apply this guidance to support the Executive's priorities under the *Programme for Government*.

## 11.3 Northern Ireland Sustainable Development Strategy

- 11.3.1 The Northern Ireland Sustainable Development Strategy has been developed as a high-level enabling document. It is designed to provide a framework that can support and inform the decisions and actions taken by individuals, groups and organisations to progress the sustainability agenda. The [Northern Ireland Sustainable Development Strategy](#) is available from the website of The Department of Agriculture, Environment and Rural Affairs.
- 11.3.2 It is important that this Strategy is considered alongside [The Sustainable Development Implementation Plan 2014 \(Focus on the Future\)](#).
- 11.3.3 This is because the Implementation Plan provides practical expression to the commitments in the Strategy, through the numerous targets for delivery contained within it.

## 11.4 Government Construction Clients' Sustainability Action Plan (2012-15)

11.4.1 Government Construction Clients developed a first 'Sustainability Action Plan' in 2003. The 2012-15 plan sets objectives and targets against key themes as follows:

Sustainability Action Plan 2012-15 Objectives and Targets
'Whole life cost' assessment to be used as part of the technical appraisal on whether to build new or refurbish/re-use existing assets.
Measures to reduce waste during construction and in operation.
Energy and water consumption targets for new projects which meet at least current best practice per construction type.
Protecting habitat and species taking due account of the need to preserve and enhance biodiversity.
Evaluating competence, resources and commitment of designers and contractors in relation to health and safety.
For project values estimated at £1 million or more, a target of BREEAM*/CEEQUAL* 'excellent' or equivalent environmental assessment rating for new projects and a target rating of at least a 'very good' for refurbishment projects. (*see Section 11.12 of this framework document)

11.4.2 The 'Construction Sustainability Action Plan' is available from the CPD section of the DoF website :

[The Government Construction Clients Sustainability Action Plan \(2012-15\)](#)

## 11.5 Sustainable Construction Guidance Notes

11.5.1 A Sustainable Construction Group was set up in December 2004 to provide guidance to Project Sponsors and Project Managers. CPD chairs the group and membership includes representatives from the construction CoPEs.

11.5.2 The Group has issued advice and guidance on a range of sustainability issues. The guidance provides examples of good practice and sources of useful information. This promotes consistency across the public sector and assists with measuring performance.

11.5.3 The documents produced by the Sustainable Construction Group are available from the [Sustainable Construction Guidance Notes](#) webpage.

## **11.6 Integrating social considerations into contracts**

11.6.1 The Northern Ireland Executive is committed to the promotion of social inclusion, well-being and equal opportunities as key objectives in the Sustainable Development Strategy for Northern Ireland. It is also committed to maximising the progression into the workforce of participants in education and training, both as a way of maximising value for money for investment in these services and to provide a skilled and productive workforce that can deliver future Government investment and help attract inward investment. To help achieve these objectives it is expected that contractors delivering larger works contracts will, as a condition of contract, deliver measurable recruitment and training outcomes.

11.6.2 Following a review of social clauses in Northern Ireland, the Procurement Board has endorsed the [Buy Social](#) approach. It agreed construction works threshold values above which recruitment and training opportunities should normally be applied: £2 million for building contracts and £4 million for civil engineering contracts. For other contracts, Departments should consider how social considerations can be included with reference to [PGN 01/13: Integrating Social Considerations into Contracts](#). The Procurement Board also agreed to the establishment of a cross departmental Social Clause Reference Group to inform future policy and support implementation of social considerations.

11.6.3 The EU Procurement Directives provide the legal framework enabling Departments to use social clauses in construction contracts to help deliver

community benefits. Further information is provided in [PGN 01/13: Integrating Social Considerations into Contracts](#).

11.6.4 The Strategic Investment Board has established a Buy Social Team to assist procurement teams to integrate social considerations into their contracts and to ensure appropriate delivery support and monitoring arrangements are available to Departments and their contractors. The Buy Social Team can be contracted through [info@buysocialni.org](mailto:info@buysocialni.org)

## **11.7 Sustainability requirements - model contract clauses**

11.7.1 GCCG and CIGNI jointly explored how to incorporate sustainability issues into construction works contracts.

11.7.2 A CIFNI Sustainability Task Group developed proposals to promote the economic, social and environmental pillars of sustainable development through sustainable procurement in construction. These proposals are available from the [CIFNI Requirements for Sustainable Construction Procurement](#) webpage.

11.7.3 The CoPEs agreed to incorporate the CIFNI proposals, as far as practicable, into all new construction contracts. The Task Group also proposed that in areas of social and economic disadvantage, Government Construction Clients may wish to use requirements which are more demanding.

11.7.4 The Task Group concluded the most effective way of delivering sustainable objectives is for Government to set out its requirements within the NEC3 Contract Works Information.

11.7.5 The Procurement Board has endorsed the use of the Buy Social Construction Model from April 2016, with pilots ahead of that date. The [Proposal for Promoting Equality and Sustainable Development](#) in construction (also known as the CIFNI Sustainability Requirements) is being revised to reflect the new social requirements within the Buy Social Construction Model and will be available on the CPD section of the DoF website.

11.7.6 CPD has advised all CoPEs to monitor and record progress against these proposals. Monitoring will be accommodated through a facility developed within eTendersNI. This will offer Government clients, and the construction industry, the opportunity to assess their use of social considerations in construction contracts.

## **11.8 Implementation of Article 6 of the EU Energy Efficiency Directive**

11.8.1 The Energy Efficiency Directive (EED) establishes a common framework of measures to promote energy efficiency within the EU. This is to ensure the achievement of the EU's 20% headline target on energy efficiency by 2020.

11.8.2 Article 6 of the Directive requires "Central Government Departments"<sup>5</sup> in EU member states to purchase or lease only highly energy efficient products, services and buildings. It refers to a list of standards and benchmarks in Annex III of the Directive.

11.8.3 However, this is a qualified duty. Authorities do not have to buy or lease the default product, service or building where it is not cost effective or does not allow effective competition. Article 6 of the EED came into force on 5 June 2014. Further information is provided in [PGN 02/14: Implementation of Article 6 of the EED](#).

## **11.9 Helping SMEs benefit from subcontracting opportunities**

11.9.1 It is important that Departments ensure that contractors operate Small and Medium-sized Enterprise (SME) friendly procedures in their supply chains. Departments can encourage contractors to enhance the visibility of relevant SME subcontracting opportunities. Without implementing such procedures, SMEs may be disadvantaged by the limited administrative and financial resources available to them, and lose their standing in the supply chain.

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<sup>5</sup> Northern Ireland Government Departments, their Agencies, Non-Departmental Public Bodies and Public Corporations.

11.9.2 In addition, if a significant element of work which may present some inherent risk to the Department is subcontracted out, then it is likely that the Department will be interested in how the contractor is managing that subcontractor. [PGN 06/12: Helping SMEs Benefit from Subcontracting Opportunities](#) is designed to ensure that SMEs benefit from subcontracting opportunities.

11.9.3 PGN 06/12 contains requirements in relation to ‘prompt payment’ and ‘no worse’ contract terms for subcontractors. The recitals in EU Directive 2014/24/EU on public procurement also highlight that public procurement should be adapted to the needs of SMEs, particularly by the division of contracts into lots where appropriate.

## **11.10 Procurement of timber and wood products**

11.10.1 Government is committed to ensuring that the public sector buys timber that is verifiably legal and from sustainable sources. To this end, the Procurement Board agreed that the Northern Ireland procurement community makes use of its purchasing power to deliver on the Government’s timber policy.

11.10.2 Taking this approach will directly support the global fight against deforestation and biodiversity loss. It will also indirectly fight corruption, tax evasion, money laundering, organised crime and human rights abuses which are features of the illegal trading of timber. Further information is provided in [PGN 04/06: Procurement of Timber and Wood Products](#).

## 11.11 Environmental Management Systems

11.11.1 From 1 April 2016, all construction works contracts procured by a CoPE will include a requirement that all main contractors seeking to tender shall maintain an Environmental Management System (EMS) certified by a third party. CPD in conjunction with the CoPEs will approve and accept third party certification of an EMS provided that:

- it is based on a recognised standard (for example, ISO 14001, BS8555 or equivalent);
- it is construction focused incorporating site inspections; and
- the third party certification body is accredited or recognised.

11.11.2 Further details on the requirement for Environmental Management Systems are available from the [Environmental Management Systems in Construction Procurement](#) webpage.

## 11.12 BREEAM and CEEQUAL

11.12.1 One of the key drivers of sustainable development is environmental assessments. Targets for the Building Research Establishment Environmental Assessment Method (BREEAM), the Civil Engineering Environmental Quality Assessment (CEEQUAL) or equivalent have been set within the 'Sustainability Action Plan' and are also included within the CIFNI Sustainability Task Group proposals.

11.12.2 For construction project values estimated at £1 million or more, the following BREEAM/CEEQUAL or equivalent environment assessment targets have been set:

- 'excellent' rating for new projects; and
- at least a 'very good' rating for refurbishment projects.

11.12.3 Complying with these targets is generally considered to represent BVfM. Departments, their Agencies and NDPBs are expected to

comply with these targets. This is unless it can be clearly demonstrated the targets are unachievable or are in conflict with achieving BVfM. This may be because of unique site constraints or the scope of the work.

11.12.4 The overriding principle is to achieve BVfM for the entire project, based on 'whole life costs'. To demonstrate this, the business case should consider as wide a range of options as possible to achieve the required BREEAM/CEEQUAL targets. The costs and benefits of achieving the targets should be fully considered at the earliest stages in the project procurement lifecycle. It is at this early stage that the most cost-effective measures can achieve the targets. These targets should be reflected in the Strategic Outline Case, the Outline Business Case and the Full Business Case.

11.12.5 Where BREEAM/CEEQUAL targets are achievable, and before business case approval by DFP Public Spending Directorate - Supply Division, Departments must demonstrate the most cost effective options and the qualitative benefits as part of the economic appraisal.

11.12.6 Further information on [BREEAM](#) and [CEEQUAL](#) is available from their websites.

11.12.7 It should be noted that in November 2015, CEEQUAL transferred its business operations to BRE Global. Since then, CEEQUAL has been delivered by the BREEAM certification team. Over a two year period, BRE will combine both approaches into a new holistic scheme for industry that combines CEEQUAL's team and process-focused approach with BREEAM's more asset-based scientific methodology. During this development period, CEEQUAL will remain open to new project registrations.

## 12 FURTHER INFORMATION

Any queries on this document should be addressed to:

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