



Department of
Finance
www.finance-ni.gov.uk

CPD

Procurement Guidance Note

PGN 02/06

(as amended)

Procurement of Fair Trade Products

Revised: 05 September 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](#).

The following PGN was endorsed by the Procurement Board with effect from 7 March 2006 for use by those bodies subject to NIPPP.

Revision History	
First issued as a Procurement Guidance Note PGN 02/06	7 March 2006
Version 2	November 2015
Version 3	05 September 2016

CONTENTS

1	Purpose	4
2	Background.....	4
3	Fair and ethical trade.....	5
4	Fairtrade mark and products	5
5	Procurement process.....	6
6	Further information.....	7

Definition of Terminology

In the preparation of this guide, 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 PURPOSE

- 1.1 This Guidance Note defines fair and ethical trade, details the range of products currently recognised as fair trade products and provides advice and guidance on the action that can be taken, under the EU procurement rules and procurement policy, to achieve fair trade objectives. Individual circumstances, however, may impact on the interpretation placed on this guidance, and in all cases where there is doubt or uncertainty about the implications for EU procurement rules, appropriate advice should be sought from your legal advisor or CoPE.

2 BACKGROUND

- 2.1 The Procurement Board in the context of UK and Northern Ireland Sustainable Development policy decided that the Northern Ireland procurement community should make better use of its purchasing power to deliver, where appropriate, fair trade objectives and contribute to a sustainable model of international trade.
- 2.2 Taking such an approach will offer benefits for international economic and social progress by improving the conditions faced by small producers in developing countries and in reducing poverty and exploitation. It should also help excluded and disadvantaged producers, including independent small farmers, to access international markets and receive a fair price for their products. Other objectives being pursued through this approach are to encourage:
- suppliers to buy as directly as possible from producer groups and to develop long-term relationships;
 - the transparency of supply chains; and
 - the empowerment of producer groups and workers.

3 FAIR AND ETHICAL TRADE

- 3.1 Fair trade is based upon a clear set of rules to ensure trade creates the basis for sustainable development. This includes affirmative action in favour of marginalised small farmers and workers of the developing world; democratic organisation of the producers and paying the guaranteed minimum price as well as an additional premium for products which the community can use for business or social development projects. Ethical trade is where goods are monitored for the core labour standards used in their production and distribution to eliminate forced labour, child labour and discrimination in employment.

4 FAIRTRADE MARK AND PRODUCTS

- 4.1 The Fairtrade Foundation awards a consumer label - the FAIRTRADE Mark. This mark demonstrates that internationally recognised standards of fair trade have been met. The Foundation shares fair trade standards with initiatives in 20 other countries, working together as Fair Trade Labelling Organisations International (FLO), which provides significant markets for fair trade products.
- 4.2 There are currently over 4,500 fair trade products certified by the Fairtrade Foundation for sale through retail and catering outlets in the UK including coffee, tea, chocolate, cocoa, sugar, bananas and other fresh fruit, juices, honey, cakes, snacks, preserves, nuts and nut oil, wine, roses and footballs. Details of these and emerging products can be found on the Fairtrade Foundation's website: www.fairtrade.org.uk and staff involved in the procurement process should familiarise themselves with, and keep updated on, any new products for inclusion in relevant contracts.
- 4.3 The provision of fair trade goods can be included as a contract award criterion (see paragraph 5.4) and as a contract performance condition.

5 PROCUREMENT PROCESS

5.1 Within procurement policy, the EU procurement rules and the EU Treaty principles of non-discrimination, transparency and equal treatment there is clear scope to encourage, in non-discriminatory advertisements and specifications, the inclusion of fair trade options.

5.2 Public procurement contracts for catering services or supplies offer the greatest opportunities to procure such products currently, although with the range of products available expanding there will be opportunities within other contracts in the future to further these objectives and practitioners should assess the opportunities when holding tendering exercises.

5.3 Environmental and social labels

5.3.1 [The Public Contracts Regulations 2015](#) (PCR15)¹ allow, as part of the specification, award criteria or conditions of contract, social/environmental labels to be used as proof of compliance with a requirement with specific characteristics that are linked to the subject matter of the contract² (e.g. working conditions of the employees producing coffee to be supplied to the authority). This can include the FAIRTRADE Mark.

5.3.2 However, suppliers must be allowed to offer compliance with equivalent labels or offer other proofs (e.g. technical dossiers) where the label cannot be obtained within the relevant time limits.

5.3.3 Labels must also meet certain conditions³ such as being based on transparent and non-discriminatory criteria and awarded by a body independent of the supplier applying for the label.

¹ Regulation 43 PCR15

² Being linked to the subject matter of the contract includes factors involved in the specific process of production, provision of trading or the specific process for another stage of the life cycle even where those factors do not form part of the material substance of the works, supplies or services (Regs 67(5) and 70(1)(a) PCR15).

³ See Regulation 43(1) of the PCR15

5.4 Award criteria

5.4.1 Contracts must be awarded on the basis of the Most Economically Advantageous Tender (MEAT). This allows Departments to take account of price and quality award criteria. The Regulations⁴ refer to trading and its conditions. As the Public Sector Directive⁵ sets out, award criteria can refer to the fact that the product concerned is of fair trade origin including the requirement to pay a minimum price and price premium to producers.

5.4.2 The clarification on products of fair trade origin stems from the Max Havelaar case ([C368/10](#)). The judgment confirmed that Departments can use fair trade as an award criterion, where the criterion relates to products supplied under a specific contract and not just to a general purchasing policy of the tenderers.

6 FURTHER INFORMATION

6.1 Any queries on this Guidance Note should be addressed to:

Procurement Policy Branch
Central Procurement Directorate
2nd Floor East
Clare House, 303 Airport Road West
Belfast, BT3 9ED
Phone: 028 9081 6518
Email: procure.policy@finance-ni.gov.uk

Construction Procurement Policy Branch
Central Procurement Directorate
2nd Floor East
Clare House, 303 Airport Road West
Belfast, BT3 9ED
Phone: 028 9081 6871
Email: ConstructionProcurementPolicy@finance-ni.gov.uk

⁴ Regulation 67(3)(a) PCR15

⁵ Recital 97 of the [2014 Public Sector Directive](#).