



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

CPD

Procurement Guidance Note
PGN 04/14
(as amended)

Integrating Sustainable Development into the Procurement of Food and Catering Services

(Supersedes PGN 01/08)

Reissued: 28 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 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 4 July 2014 for use by those bodies subject to NIPPP.

Revision History

First issued as Procurement Guidance Note PGN 01/08:	April 2008
Reissued as PGN 04/14:	31 July 2014
Revised to make reference to The Public Contracts Regulations 2015:	27 February 2015
Reissued Departmental logo and links	28 September 2016

FOREWORD

Food, and particularly the quality of food we consume, is critical in underpinning the health of the population. Historically poor diet has been a contributory factor in our high incidence of coronary heart disease. More recently poor diet and a lack of exercise are linked to the growing problem of obesity and the potential for an explosive increase in diabetes, particularly among our children and young people. It is essential therefore that in specifying food and catering requirements we ensure we incorporate high standards for nutritional and food safety.

During 2011-12 some £36.5 million was spent locally on the procurement of food by Government Departments with a further £7 million spent on catering services. The majority of this expenditure was in the provision of food and beverages for some of the most vulnerable groups in our community, in hospitals (some £18m) and in schools (some £17m). How this money is spent is of vital importance to our economy, environment and society.

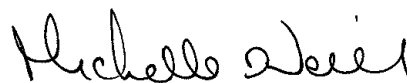
We are fortunate that, as a largely rural economy, we have an abundance of producers and suppliers of high quality, sustainable food items capable of helping the public sector tackle the challenge of delivering high quality nutritious meals for those in its care.

Many of our local producers already supply the public sector's needs however there are many who do not. We hope that this guidance will help increase access to public sector business for many small and medium sized producers, not just here but across Europe where we are known for the quality, safety and traceability of our produce.

We are pleased to endorse this Procurement Guidance Note which will support the efficient and responsible buying of food and catering services and inform suppliers of the standards to be met in competing for Government business.



Simon Hamilton, MLA
Minister of Finance and Personnel
Chair of the Procurement Board



Michelle O'Neill, MLA
Minister of Agriculture and Rural
Development

CONTENTS

	Glossary.....	5
	.	
1	Purpose.....	8
2	Characterising ‘Sustainable Food’.....	8
3	Aims of Integration of Sustainable Development into Food and Catering.....	9
4	Public Procurement Policy and EU Procurement Rules.....	11
5	Procuring Healthy Food.....	13
6	Procuring Food Sustainably.....	14
7	Accessibility and Market Engagement.....	14
8	Assurance Schemes.....	18
9	Integrity of the Food Supply Chain.....	18
10	Putting Sustainability into Contract Specifications.....	19
11	Contract Management.....	21
12	Useful Links for Further Reading.....	21
13	Further Information.....	21
Annex A	Procurement Process.....	22
Annex B	NI Prison Service Case Study.....	23
Annex C	Education and Library Boards Case Study.....	26
Annex D	Model for a Sustainable Approach to the Procurement of Food and Catering Services	28
Annex E	Sample Contract Clauses and Specification Requirements	30

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 [Northern Ireland Public Procurement Policy](#) (NIPPP).

GLOSSARY

- Fresh** The term “fresh” can be used to identify products that have not been processed. The terms “fresh” or “freshly” should only be used where they have a clear meaning, whether used alone or qualified by other terms. The description can help consumers differentiate between similar products, for example:
- products that have not been processed, e.g. a fresh fruit salad that is made only from fresh fruit;
 - products with a limited shelf life, even where these have been subjected to a minimal, mild heat treatment such as conventional pasteurisation for safety purposes. It also applies to products held under chilled conditions or in other controlled atmospheres for delayed ripening and/or extended storage at point of sale, fresh dairy products (such as cream);
- GPP** Green Public Procurement (GPP) is defined by the European Commission as:
- “... a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured.”
- Natural** “Natural” means essentially that the product is comprised of natural ingredients e.g. ingredients produced by nature, not the work of man or interfered with by man. It is misleading to use the term to describe foods or ingredients that employ chemicals to change their composition or comprise the products of new technologies, including additives and flavourings that are the product of the chemical industry or extracted by chemical processes.
- Original** Unlike “traditional” the term “original” does not imply, necessarily, that a product has remained unchanged for a substantial period of time. It may be applied to newer products on the market. It is used to indicate that a

product was the first of its type to be placed on the market, where the original form or flavour has remained essentially unchanged through the passage of time (although this need not be for a long period) and hence to differentiate it from new additions to a range.¹

Pure The term “pure” is mostly used on single ingredient foods (eg to indicate a single, named variety of rice) or to highlight the quality of ingredients of a food (eg “pure butter shortbread” to indicate the butter has not been blended with other fats).

Seasonal This term refers to food produced when it is in season and able to be grown outside and requiring less input in terms of energy, water etc than that produced out of season or under cover. Seasonality and the consequent reduction of these inputs will often significantly reduce the environmental impacts of transport. Seasonality is not limited to fruit and vegetables, items such as meat and fish may also be seasonal.²

Sustainability Sustainable food – should be produced, processed, bought, sold and eaten in ways that:

- Provide social benefits, such as safe and nutritious products, and improve people’s experiences of good quality food, for instance by growing and cooking it, which helps to enrich our knowledge and skills, and our cultural diversity;
- Contribute to thriving local economies that create good jobs and secure livelihoods – both in the UK and, in the case of imported products, in producer countries; and
- Enhance the health and variety of both plants and animals (and the welfare of farmed and wild creatures), protect natural resources such as water and soil, and help to tackle climate change.

¹ <http://www.food.gov.uk/multimedia/pdfs/markcritguidance.pdf>

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/147376/dh_127593.pdf.pdf

Traditional The term “traditional” is widely used to describe a product or method of preparation used over a substantial period of time when newer alternatives are available on the market. It implies more than “original” or “plain”.

1 PURPOSE

- 1.1 The purpose of this guidance note is to provide advice and guidance to procurement practitioners on integrating sustainable development and healthy eating objectives into the procurement of food and catering services.
- 1.2 At the same time under the auspices of ‘A Fitter Future for All’, the DHSSPSNI “Framework for Preventing and Addressing Overweight and Obesity in Northern Ireland, 2012 – 2022”³ has set up a Health and Social Care (HSC) Workplace Subgroup. This subgroup has been tasked to work with catering and procurement professionals to investigate the potential of improving the procurement of food and drink by HSC organisations, drawing on Department for Environment, Food and Rural Affairs (Defra) standards⁴.
- 1.3 Best value for money, probity and compliance with public procurement rules remain paramount considerations. Nonetheless procurement practitioners should, where possible, take advantage of opportunities for legitimately procuring sustainable food or catering services within this framework.

2 CHARACTERISING ‘SUSTAINABLE FOOD’

- 2.1 The NI Executive has made clear its desire to “ensure that the principles of sustainability reach into all the activities of Government”⁵. The food we consume in Northern Ireland, through its production, processing, transport and eventual disposal of food waste, makes a significant contribution to several critical sustainability challenges, such as climate change, public health, social inequality, biodiversity and the use of land, water and energy. Based on this, sustainable food should be produced, processed and traded in ways that:
 - Contribute to thriving local economies and sustainable livelihoods – both in the UK and, in the case of imported products, in producer countries;

³ <https://www.health-ni.gov.uk/articles/obesity-prevention>

⁴ <http://sd.defra.gov.uk/advice/public/buying/products/food/standards/>

⁵ [Everyone's Involved - Sustainable Development Strategy](#)

- Protect the diversity of both plants and animals (and the welfare of farmed and wild species), and avoid damaging natural resources and contributing to climate change;
- Provide social benefits, such as good quality food, safe and healthy products, educational and employment/training opportunities where possible; and
- Deliver improving environmental impact throughout the lifecycle of the product or service.

3 AIMS OF INTEGRATION OF SUSTAINABLE DEVELOPMENT INTO FOOD AND CATERING

3.1 Integrating sustainable development into the procurement of food and catering services aims to:

- procure affordable food of a high nutritional quality that is essential to our health and well being and, in doing so, help promote sustainable agriculture and fisheries;
- promote healthier food and drink choices i.e. that are low in saturated fats, salt and added sugar;
- promote the use of fresh, seasonal and traditional produce;
- ensure that contract specifications and conditions require caterers to procure their supplies in such a way that gives all producers fair and equal opportunities to compete for relevant contracts;
- make premium standard options available to consumers where there is scope to do so, e.g. in catering contracts. Fair and ethically traded products should be requested/specified where appropriate;
- require suppliers to meet appropriate assurance standards;
- promote high animal welfare standards⁶;
- promote agricultural practices that are less reliant on fossil fuels and agri-chemicals;
- reduce the amount of food and associated packaging that is wasted, through appropriate planning, ordering, storage, portion control etc;

⁶ <https://www.gov.uk/animal-welfare>

- reduce waste to landfill through better use of recycling, anaerobic digestion and composting;
- promote biodiversity;
- promote equality through the provision of catering services that take account of diversity among customers and the different demands arising from that;
- operate in a way that takes account of the main sustainable development priorities set out over a range of Northern Ireland Executive policy documents in agriculture, fisheries, health and the environment;
- increase capacity and opportunities for smaller and local producers to meet public sector demands. *'aggregation of demand should not necessarily mean aggregation of supply'*;
- consider the effect of menus on kitchen and plate waste; and
- consider the implications for overall kitchen operations including staffing costs, any staff training required, any additional preparation, cooking and storage equipment required, and the effect on the levels of waste.

3.2 CPD has produced detailed guidance on the procurement of fair and ethical traded products. It details the range of products currently recognised as fair trade products and provides Contracting Authorities with advice and guidance on the action that can be taken under EU procurement policy to achieve fair trade objectives⁷. Recent European case law (Commission V The Netherlands, (C-368/10)) which is reflected in the Procurement Regulations, makes it possible to use award criteria in the evaluation of tenders which include fair trade products.

3.3 The Court in this case referred to the Directive 2004/18/EC (Recital 46) which states that it is possible to use award criteria which aim to meet social requirements in response to the needs of particularly disadvantaged groups of people to which those receiving/using the works, supplies or services in question belong. It ruled that award criteria which are based on social considerations need not concern solely the persons using or receiving the works, supplies or services which are the object of the contract, but also 'other persons'. In this particular case these other persons included small scale producers involved in the production process. The

⁷ [PGN 02/06 Procurement of Fair Trade Products](#)

Court also held that these criteria were linked to the subject matter of the contract, as they covered only the ingredients supplied for the contract, without any bearing on the general purchasing policy of the tenderers. It emphasised that, in order to be related to the subject matter of the contract, an award criterion need not relate to an intrinsic characteristic of the product itself.

- 3.4 The Court concluded – ‘There is therefore nothing, in principle, to preclude such a criterion from referring to the fact that the product was of fair trade origin.’ This area of social clauses in procurement is complex and is incorporated into the new EU Public Procurement Directives 2014/24/EU which codify the current case law. This will have implications for any procurement where social and environmental requirements could be built into specifications provided they are linked to the subject matter of the contract and made transparent to suppliers. Legal advice should be sought as early as possible in the deliberations on the use of social clauses as award criteria.

4 PUBLIC PROCUREMENT POLICY AND EU PROCUREMENT RULES

- 4.1 The EU Procurement Directives set out the legal framework, detailed procedures and rules for specification, selection and award of contracts above certain thresholds. Even below these thresholds, the EU Treaty-based principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality apply where there is cross-border interest. The Directives have been implemented into UK law by Statutory Instruments⁸.
- 4.2 Northern Ireland Procurement Policy requires all public procurement to be based on best value for money, having due regard to propriety and regularity. Best value for money is defined as “the most advantageous combination of cost, quality and sustainability to meet customer requirements”⁹. While “best value for money” is the primary objective of procurement policy, this definition allows for the inclusion, as appropriate, of social, economic and environmental goals within the procurement

⁸ [The Public Contracts Regulations 2015](#), [The Utilities Contracts Regulations 2016](#) and [The Concession Contracts Regulations 2016](#)

⁹ NI Public Procurement Policy online at: <https://www.finance-ni.gov.uk/articles/introduction-ni-public-procurement-policy-document>

process. This policy applies to all Departments, Agencies, Non-Departmental Public Bodies and public corporations. Details of these bodies can be found in the Northern Ireland Public Procurement Policy.

4.3 In addition the public sector must comply with the statutory duties in respect of both sustainable development and equality of opportunity:

- Section 25 of the NI (Miscellaneous Provisions) Act 2006 places a duty on Northern Ireland government departments and district councils to ensure that the principles of sustainable development underpin all decisions and actions.
- Section 75 of the Northern Ireland Act 1998 requires designated Public Authorities to have due regard to the need to promote equality of opportunity in carrying out their functions.

4.4 All public procurement exercises must be carried out within this legal and policy framework.

4.5 Although procurement practitioners must abide by the EU Directives and UK Procurement Regulations, these should not be seen as a constraint. The rules require Departments¹⁰ to consider exactly what is required from a contract at the start of the procurement process. It is at the specification stage that there is most scope for Departments to consider sustainability issues and identify need. The regulations do place some limits on the tender process such as in the way contracts are advertised. This is to ensure fairness and transparency and to prevent discrimination however buyers can still achieve their objectives within the rules. A process map setting out the key stages in the procurement process, including when sustainability can best be considered, is set out at **Annex A**.

4.6 Distinction between the Procurement of Food and Catering Services.

4.6.1 The procurement of *food supplies*, where the value exceeds the EU threshold is subject to the full requirements of the Procurement Regulations, which includes being advertised in the Official Journal of the European Union (OJEU).

¹⁰ In this PGN this term refers to all those bodies to which the NI Public Procurement Policy applies.

4.6.2 It is important to note that [The Public Contracts Regulations 2015](#) abolish the differentiation between Part A and Part B services. There is now a 'Light Touch Regime' for certain social and other specific services listed in Schedule 3 of the Procurement Regulations. Catering services are included in this list. A new financial threshold applies solely to services in the 'Light Touch Regime' (EUR 750,000). The full rigour of the procurement rules will not apply to the services whose value is over that sum, however, OJEU advertising is required and a contract award notice must be published as detailed in [PGN 02/16 Light Touch Regime](#) . If the value of the procurement falls beneath EUR 750,000 that procurement shall not be subject to the procurement rules at all, but only to the Treaty principles.

5. PROCURING HEALTHY FOOD

5.1 A healthier menu is varied and balanced, uses a range of cooking methods and includes appetising food and drink. Procuring healthier foods and ingredients and specifying standards to catering service providers can improve the nutrient content of menus. Healthier catering practices take this further, including careful planning of menus, choosing healthy foods, varying and making changes to the way food is cooked and served, ensuring that menus are healthier overall.

5.2 As a first step organisations should develop a nutritional strategy if one is not already in place with input and advice from, nutritional experts, catering staff and suppliers. In particular the following actions are recommended:

- menus and specifications should be reviewed jointly by procurement practitioners, nutritional experts and catering staff to identify potential for improvement including maximising opportunities to use seasonal and fresh produce;
- consult key suppliers, where appropriate to suggest areas for improvement; and
- review cooking, storage and distribution processes to maximise the nutritional benefits of food.

5.3 The Department of Health in the UK has developed a toolkit which contains practical information for caterers who want to improve the nutritional content and sustainability of their menus. This toolkit provides useful information when

commissioning catering services, buying food and food ingredients as well as when cooking and serving food.¹¹

6 PROCURING FOOD SUSTAINABLY

- 6.1 The maintenance of economic growth and employment is a key objective of sustainable development and there is evidence that local sourcing of agricultural produce can contribute to the development of rural economies. While we must not discriminate in favour of local suppliers, public sector buyers can support local sourcing by considering and removing obstacles to tendering by local suppliers, especially as this may help to achieve best value for money.
- 6.2 The Seafish Responsible Sourcing Guides (for 38 species) provides fish and seafood buyers with objective and accurate information on the status of fish stocks, on a species by species basis. The purpose of these guides is to give buyers background information on the status of these stocks and on some of the measures taken to protect them. Knowing your source of supply is an important element in guarding against illegally landed fish. These guides are available from:
<http://www.seafish.org/responsible-sourcing>.
- 6.3 Local examples of successful models for the delivery of the sustainable procurement of food are attached at **Annexes B and C**.

7 ACCESSIBILITY AND MARKET ENGAGEMENT

- 7.1 Given the opportunity to tender, local suppliers may have a competitive edge over competitors from further afield as a result of lower overheads, e.g. reduced transport costs. CPD have produced a guide for purchasers entitled “removing the barriers to SMEs” which suggests measures that purchasers might take to eliminate obstacles encountered by small or medium sized enterprises in the procurement process. A key step is that suppliers should register on the eTendersNI portal

¹¹ <https://www.gov.uk/government/publications/healthier-and-more-sustainable-catering-toolkit-and-supporting-nutrition-principles>

<https://etendersni.gov.uk/epps/home.do>. This will give them access to all public sector opportunities.

7.2 Examples of actions aimed at removing barriers to small and medium sized suppliers which buyers should consider include:

- Encouraging small local producers/suppliers to collaborate on organising collective responses to demand. Many small producers have the capacity to supply competitively but miss out on large government supply contracts because individually they cannot meet demand but could if organised to work collectively;
- Encouraging small local producers/suppliers to explore entry to the public sector supply chain by establishing links with larger food chain suppliers with a proven distribution network;
- Making sure that potential suppliers know how to identify and compete for public sector contracts by widely advertising on the eTendersNI portal;
- Specifying fresh or seasonal produce that can be grown in the UK or EU and fewer exotic fruit and vegetables that local growers are unable to grow, where such local produce meet users' needs (see next section for further details);
- Structure contracts to meet supply base capacity consistent with best value for money particularly where purchasing is decentralised (e.g. Health and Education sectors) thereby, reducing barriers to the local agri-food industry.
- This might include:
 - Facilitating the inclusion by large contractors of smaller growers and producers as second and third tier suppliers;
 - Promoting the use of “lots” during the tendering process, where this is consistent with best value for money, to allow small and medium sized enterprises to bid for certain parts of supply contracts. This can include for example:-
 - i. dividing contracts across geographic lots to ensure SMEs and Micro businesses in the local regions have the opportunity and capacity to bid;
 - ii. dividing contracts into product specific lots to ensure accessibility for specialist growers/producers, SMEs and Micro businesses; and
 - iii. it should be emphasised that EU rules prohibit public bodies from splitting contracts with the intention of causing their value to fall below EU

procurement thresholds, for the purpose of deliberately avoiding associated regulations.

Annex D sets out the suggested model for a sustainable approach to the procurement of food and catering services.

7.3 What buyers can do

7.3.1 The CoPEs responsible for buying food for schools, hospitals and prisons have worked alongside the Department of Agriculture, Environment and Rural Affairs (DAERA, previously DARD) to assist in the development of a range of guidance to support and encourage the participation of SMEs in competition for Government business as well as looking at how to integrate sustainable development considerations into public sector contracts.

7.3.2 Activities have included:

- engaging with the supply base to stimulate interest through supplier briefing / meet the buyers sessions;
- reviewing the local and regional supply base to gain an understanding of opportunities and shortfalls;
- encouraging networking and collaborative opportunities between local producers, suppliers and distributors; and
- advising on how to tender for public sector contracts.

7.4 Advice for producers/growers

7.4.1 The College of Agriculture, Food and Rural Enterprise <http://www.cafre.ac.uk/> within DAERA provides a comprehensive range of education and training programmes for producers and processors that develop technical and business management skills. College staff can assist with product specification, product development and the adoption of new technology. In addition, the College benchmarking programmes can be used to monitor and identify opportunities for improved efficiency and competitiveness in production systems.

DAERA officials continue to provide technical support and advice to individual producers, processors, producer groups or co-operatives, to help them engage in public sector contracts. DAERA also provides advice on available fund schemes which will be made available via their website <https://www.daera-ni.gov.uk/>.

8.0 ASSURANCE SCHEMES

8.1 Assurance schemes are voluntary schemes which verify through regular independent inspection that producers and growers are producing primary agricultural products according to documented standards covering food safety and traceability, animal welfare and environmental protection. Many of these standards are based on legislation, codes of good agricultural practice and recognised good industry practice. It is recommended that wherever possible, caterers and public purchasers specify food standards that mirror those laid down in assurance schemes encompassing food safety, environmental and animal welfare issues, provide for regular independent third party inspection and are accredited to EN45011. This is the recognised European Standard for Product Certification and requires inspection, testing and surveillance to ensure that quality standards are complied with, and that compliance with the standard can be identified by a certificate, mark of conformity or by licence to a supplier. The three main principles of EN 45011 are:

- independence;
- third party checks on standards; and
- normative documentation against which standards can be measured.

8.2 Retailers often require that goods be produced in accordance with standards laid down in assurance schemes in order that they can demonstrate due diligence. Practitioners can also use assurance criteria to help determine requirements for food safety, production and process methods, animal welfare and environmental protection, etc, in their technical specifications. They can also accept assured sources as proof of compliance with those criteria.

8.3 However, under the public procurement rules, practitioners must also accept other means of proof and therefore when specifying products covered under assurance schemes provide suppliers with the opportunity of providing other evidence such as

technical dossiers, auditors' reports and test reports. This point was reinforced by the Commission v Netherland case C-368/10 where the Court referred to Article 2 of Directive 2004/18, which lays down the principles of awarding contracts ie that contracting authorities are to treat economic operators equally and non-discriminatorily and are to act in a transparent way. This case is reflected in the Procurement Regulations.

- 8.4 The Court held that those principles are of crucial importance with regard to the technical specifications. It found that the Directive states that the technical specifications must afford equal access for tenderers and not have the effect of creating unjustified obstacles to the opening up of public procurement to competition.
- 8.5 It ruled that Contracting Authorities have the option to use the detailed specifications of an eco label, (although the Contracting Authority may indicate that products bearing the eco label, the detailed specifications of which they used, are presumed to comply with the specifications concerned).
- 8.6 It concluded that Contracting Authorities must accept any other appropriate means of proof, such as a technical dossier of the manufacturer, or a test report from a recognised body. Contracting Authorities must ensure that the specification does not discriminate against producers who maintain equivalent or better standards, but have chosen not to be accredited against the specified scheme.

9 INTEGRITY OF THE FOOD SUPPLY CHAIN

- 9.1 In light of high profile food scares and reported cases of contamination, buyers should consider including a contract clause and key performance indicator where appointed suppliers will be required to provide assurance to the contracting authority that due diligence tests / checks are carried out throughout their supply chain. This should verify adherence to quality and food labelling legislation and report the results back to the contracting authority at set intervals.

9.2 Food labelling contains information provided by food businesses about their products. It covers all food that is sold to the consumer directly as well as food sold to cafes, restaurants and other catering establishments. Falsely describing, advertising or presenting food is an offence, and there are a number of laws that help protect consumers against dishonest labelling and misdescription¹². Food labelling is controlled in Northern Ireland by the Food Labelling Regulations (Northern Ireland) 1996. Within the EU and UK, if a food contains or consists of genetically modified organisms (GMOs), or contains ingredients produced from GMOs, this must be indicated on the label. For GM products sold 'loose', information must be displayed immediately next to the food to indicate that it is GM.

10 PUTTING SUSTAINABILITY INTO CONTRACT SPECIFICATIONS

- 10.1 In developing contract specifications for the procurement of food and catering services following consideration of relevant policy, legal and nutritional requirements it is possible to integrate sustainable development considerations into the invitation to tender documentation, for example specifications could include:
- a requirement for freshness, seasonality or frequency of delivery, which can increase opportunities for local producers; and
 - a requirement for foods produced using recognised methods of production and processing, e.g. organic products and other appropriate standards for farm assurance.
- 10.2 When procuring catering services the requirements could include:
- a requirement to have menu variations which meet food and/or nutrient based standards;
 - it is no longer enough for a food business operator to say that they do not know if a food contains an allergen and deny any knowledge, nor is it enough to say that all their foods may contain allergens. Allergen information must be specific to the food, complete and accurate. The information can be supplied on the menu, on chalkboards, tickets or provided verbally by an appropriate member of

¹² <http://www.food.gov.uk/northern-ireland/ull/>

staff as well as in other formats made available to the consumer. It must be clear and conspicuous, not hidden away, easily visible, and legible. If the information is to be provided verbally by a member of staff, then it is necessary to make clear that the information can be obtained by asking a member of staff by means of a notice, menu, ticket or label that can easily be seen by a customer. This also applies to food pre-packed for direct sale, such as from deli counters, bakeries or sandwich bars;

- requirement to prepare and implement a food waste minimisation plan;
- nutritional content such as levels of fat, protein or salt;
- it should be borne in mind when drafting specifications that any characteristics specified for a particular product must be clearly identifiable and/or measurable. This will also be required both at tender evaluation stage, and should be mentioned as part of the contract management process, (See 11 below);
- Defra have developed some guidance on food and catering service standards which may be helpful to buyers in developing specifications¹³.

10.3 Public-sector buyers can include a requirement for fair trade products when letting a tender. Where the catering services are provided under contract, the caterer can be required to offer fair trade products as an option to customers and the contract can require the caterer to provide fair trade products as refreshments in catering for in-house meetings and events.

10.4 More detail on specifying requirements, including sample clauses is set out in **Annex E**.

11 CONTRACT MANAGEMENT

11.1 Contract management is necessary to ensure the objectives of the contract are delivered. It is the responsibility of the contract manager to ensure that the suppliers meet the requirements set out in the specification and conditions of contract. All KPIs and/or due diligence should be highlighted and monitored accordingly. Effective contract management will ensure best value for money is achieved including any quality and sustainable development requirements included

¹³ <http://sd.defra.gov.uk/advice/public/buying/products/food/standards/>
DF1/15/167329

in the specification. Further guidance is available in [Procurement Guidance Note 01/12 - Contract Management Principles and Procedures](#).

12 USEFUL LINKS FOR FURTHER READING

12.1 In developing this guidance Central Procurement Directorate has worked closely with DAERA and the Centres of Procurement Expertise responsible for procuring food. It has also has drawn on work from a number of sources including DEFRA, Value Wales, the Sustainable Development Commission, Food Standards Agency, the UK Government's Advisory Committee on Consumer Products and the Environment, Soil Association and the Waste and Resources Action Programme (WRAP).

12.2 Other sources of information can be found at the following links:

<http://www.food.gov.uk/northern-ireland/ull/>

<http://www.food.gov.uk/enforcement/regulation/fir/labellingproposals/>

<http://food.gov.uk/enforcement/regulation/foodlaw/foodlawguide/>

<http://www.food.gov.uk/northern-ireland/niregulation/niguidancenotes>

<http://www.opsi.gov.uk/Sr/sr2003/20030244.htm>

<http://www.daera-ni.gov.uk/>

www.food.gov.uk

13 FURTHER INFORMATION

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

Central Procurement Directorate

Procurement Policy Branch

2nd Floor East

Clare House

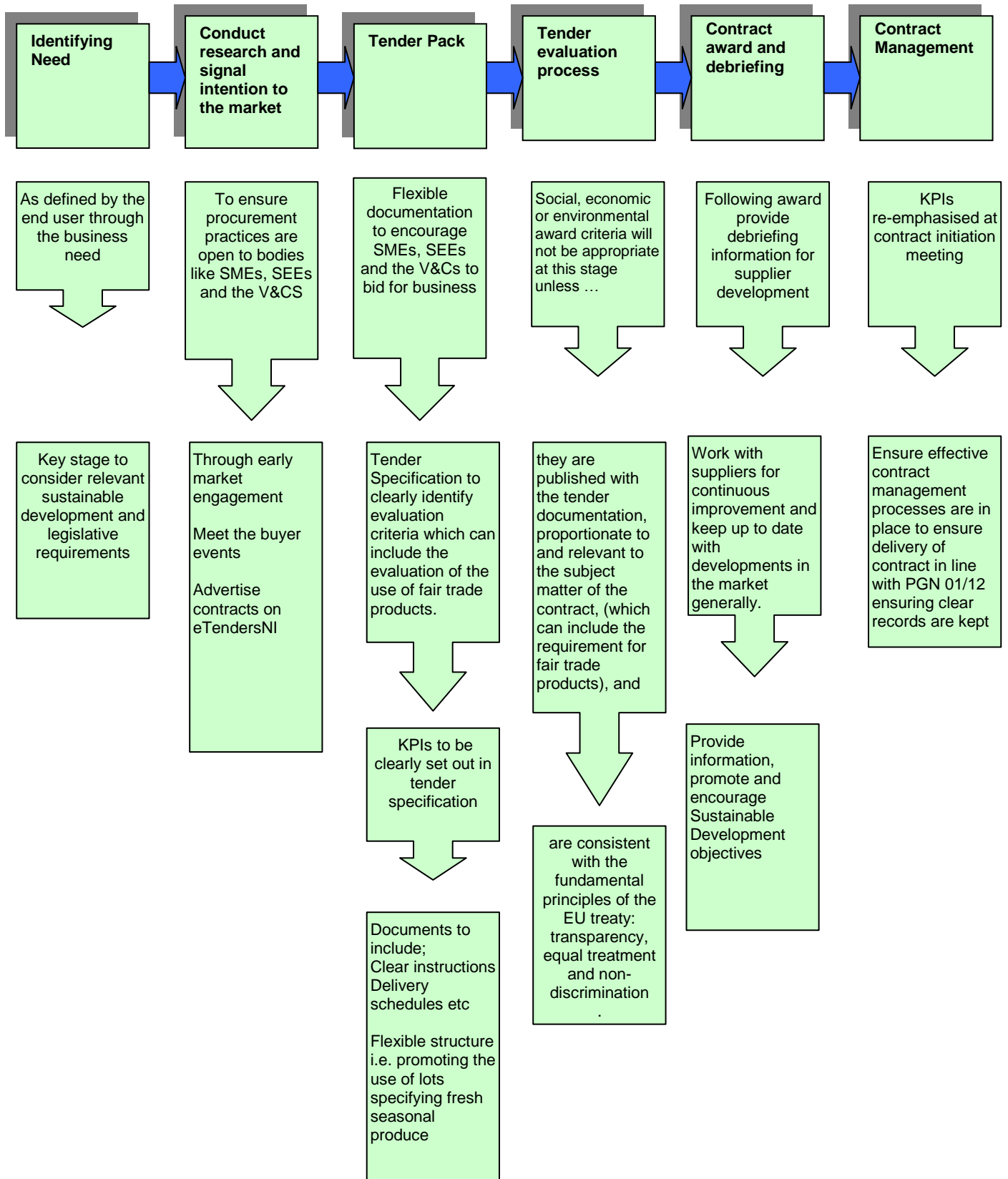
303 Airport Road West

Belfast BT3 9ED

Phone 028 9081 6518

E-mail: procure.policy@dfpni.gov.uk

Procurement Process



Case Study 1

Procurement of Food for Prisons in Northern Ireland

Background

Central Procurement Directorate has worked with the Northern Ireland Prison Service (NIPS) to develop a procurement strategy and contract model to establish regulated contracts for the supply and delivery of numerous food items.

Prison catering departments are required, under the Northern Ireland Prison and Young Offenders Rules 1995 to.... 'provide every prisoner with sufficient food which is wholesome, nutritious, palatable, adequately presented and well prepared and which takes into account age, health, and work and, as far as practicable, religious or cultural requirement' (Rule 82).

The main objective of every Prison Service catering team is: - 'to provide a varied and healthy menu which takes account of prisoner's preferences whilst maintaining compliance with all relevant food safety legislation.'

The prison service catering requirements are supplied by an 'in-house' team of various officer and civilian grades who provide meals for staff and prisoners, 365 days a year across the three prison establishments : Maghaberry, Magilligan and Hydebank Wood Young Offenders Centre and Prison.

The spend on food varies from year to year, fluctuating in line with the prison population and against seasonal market factors.

Procurement Strategy

The procurement strategy and contract model incorporated three key objectives:

- To achieve Value for Money
- To ensure accessibility for SMEs and Micro Business

- To incorporate all best practice food standards and establish provenance of the supply chain and participation in recognized national or international assurance schemes or equivalent standards .

Tender process and Contract Model

- The requirement was divided into two geographic lots, Magilligan Prison (North West of the Province) and Maghaberry and Hydebank Wood (Lisburn and Belfast) to ensure that SME's and micro businesses in these regions would have the opportunity to bid.
- To ensure accessibility, the contracts in each of the regions were divided into 16 lots/individual contracts spread over four broad categories of food bands. These categories were subdivided into product specific lots (eg milk, eggs, bread, beef, lamb, poultry, pork and others) to make lots accessible to SMEs and micro businesses, including producers.
- To develop capacity within the market place, supplier briefing sessions were incorporated into the process to:
 - i. engage with the supply base to stimulate interest;
 - ii. to encourage networking and collaborative opportunities between local produces, suppliers and distributors; and
 - iii. to advise potential suppliers on how to tender through eTendersNI and remove any perceived barriers to bidding for public sector contracts.

The specifications each included compliance with all relevant food standards and labelling legislation. Site visits were incorporated as part of the tender process to test facilities and processes for food safety management in line with Hazard Control Critical Control Points (HACCP) principles and Good Manufacturing Practice (GMP).

Accreditation to ISO 9001 2008 or equivalent was mandatory.

Product specifications were provided incorporating quality standards and the requirement to participate in recognised national and international assurance schemes to establish provenance of the supply chain, sustainable sourcing and animal welfare.

Special dietary products were included e.g. low salt, gluten free. Ethnic food products were required to be sourced, prepared, processed and packaged in accordance with the specific requirements of the religious law, where these applied to Halal or Kosher foods.

Using this model 16 contracts were established which met all requirements. Fifteen of the 16 awarded contracts were to SMEs.

Case Study 2

Procurement of Food for the Schools Sector - Education and Library Boards (ELBs)

Nutritional Standards became compulsory in school meals kitchens in 2008, and there have been various amendments up until 2011. The purpose of this initiative was to;

‘support the Public Service Agreement target to halt the rise in levels of obesity in children and young people’.

Broadly a healthy diet means to;

‘not eat too many foods containing a lot of fat, especially saturated fat and not having sugary foods and drinks too often’.

Restrictions were placed on the frequency with which some foods, particularly fried products, could be used, while other foods were not permitted at all. For instance;

- Chocolate or chocolate coated products are not permitted.
- Cakes, biscuits and puddings made with cocoa powder are permitted no more than twice a week.

For those foods which were permitted, limits were placed on the amount of fat, salt and/or sugar which they could contain.

This posed a number of significant challenges to the School Catering Services in the ELBs. Menus had to be radically revised to take account of the new requirements. Some foods had to be removed altogether from the menus while new products had to be introduced to replace them, and in some situations this required new cooking methods and therefore new equipment. All of this had to be achieved within very tight cost restraints.

Prior to the full implementation of the standards, the Boards' Catering and Procurement Services worked closely with manufacturers and suppliers to look at the ingredients of products currently being used. They had to ascertain if these products conformed to the new requirements and if not, if their composition could be changed, at reasonable cost and without affecting their taste, to allow their continued use. Where this was found not to be possible they looked to identify new alternative products which met both the cost and nutritional requirements. Suppliers and manufacturers played an important role in taking on board suggestions made by the ELBs and developing new products which fitted the bill.

One ELB worked closely with a local bakery in developing a range of pastry products which could be used as desserts in schools and which fully adhered to the nutritional standards while being available at a reasonable cost. These products were then the subject of an open tendering exercise, and are now available to all five Education and Library Boards.

Model for the Procurement of Sustainable Food Products

Procurement of Fresh Beef, Pork, Lamb and Chicken for the Health Sector

Each year Health & Social Care in Northern Ireland spend an average of £2.1 million for the supply and delivery of fresh beef, pork, lamb and chicken. As the expenditure in this area is significant it was felt after doing some research that the contract should be sub-divided into lots as this would give SMEs an opportunity to bid for one or more lots depending on the size of contract they felt competent to develop.

Tendering Process

- 1.0 In developing the specification the procurement team:
 - consulted with Loughry College on the product specification to ensure full compliance with all food legislation;
 - consulted with dieticians to quality check the specification;
 - sought advice on Environmental Policy; and
 - ensured that the specification allowed for organic produce.
- 2.0 The tender was written in such a way as to encourage SMEs to bid. This included:
 - breaking down of deliveries by facility;
 - the opportunity to bid for 1 or all lots;
 - the opportunity to bid for supply and delivery of products; and
 - the opportunity to sub-contract any element of the contract.

Going to Tender

- 3.0 The competition was advertised on:
 - <https://etendersni.gov.uk/epps/home.do>; and
 - In the local papers.
- 3.1 Nine companies requested tender documents and 7 tenders were returned.

3.2 The 7 tenders were then given to the evaluation panel consisting of the catering managers, and assessed by them against the published weightings.

3.3 The contact was awarded to the winning tenderers. All were local suppliers.

Procurement Model

4.0 Fresh Beef, Pork, Lamb and Chicken

Input	Actions	Desired Outcome	Actual Outcome
Market Research	Internet Search Meet The Buyer Contact previous bidders Request details Other	Encourage SMEs to bid for business	9 Companies downloaded / requested documents - 1 of which was a new entrant into the market
Incorporating sustainable ethos	Documents to include: Delivery schedules Flexible structure Environmental considerations Technical support	Flexible documentation to encourage SMEs to bid for business	While SMEs did bid for the business the contract was set up in such a way as to allow suppliers to make an informed decision as to whether they could confidently compete, win and service the contract. Some suppliers did opt out at this stage.
Tender Process	Carried out in accordance with EU legislation	To meet EU requirements	Outcome met
Contract Award	As Above		Contract Awarded to Local Suppliers

SPECIFYING REQUIREMENTS

Background

The Procurement Regulations have clarified:

- The scope to take account of environmental and social issues in public procurement;
- How one can specify green production process standards and relevant parts of eco-labels;
- How environmental issues can be included in contract terms and conditions;
- At the selection stage, how one can take account of environmental management systems and wider environmental/social aspects of technical capacity and track record; and
- How social and environmental considerations can be included in award criteria such as the application of whole life cost and quality and the procurement of fair trade products.

Issues which can be included

It *is* possible to specify:

- Freshness¹⁴, seasonality and frequency of delivery, which can increase opportunities for small local producers;
- Foods produced using recognised methods of production and processing, e.g. organic products and other appropriate standards for farm assurance;
- Nutritional content such as levels of fat, protein or salt;
- Contract conditions that are relevant to the performance of the task, such as frequency of deliveries or type of packaging (and therefore waste reduction) may also be included, such as:

¹⁴ For more detail on the definition of the word Fresh – see the note at the end of this section.

- specifying products with longer shelf-life can reduce waste and allow for larger quantities resulting in less frequent deliveries thus reducing emissions and possibly the amount of packaging;
 - requesting less packaging or more environmentally friendly packaging can reduce waste.
- An outcome for reduced food waste, and an associated requirement to implement a food waste minimisation plan;
 - Products that are part of the EU Protected Food Name Scheme (Protected Geographical Indication (PGI), Protected Designated Origin (PDO) and Traditional Speciality Guaranteed (TSG)) can be specified, e.g. New Season Comber Potatoes or Bramley Apples.

Methods of processing and production can be requested in the technical specifications of the tender where these help to specify the performance characteristics of the product or service. This includes both process and production methods that “physically” affect the end product (e.g. absence of chemicals) and those that do not, but nevertheless affect the “nature” of the end product such as “organically grown foodstuffs”.

Fresh

The description “**fresh**” can be helpful to consumers where it differentiates produce that is sold within a short time after production or harvesting. However, modern distribution and storage methods can significantly retard the effects of this lapse of time, and it has become increasingly difficult to decide when the term is being used legitimately.

The term can also be helpful when used to identify products that have not been processed. In these cases it is important to be clear what is meant by processing: excluding the use of chill temperatures and other controlled atmospheres for the delayed ripening and/or extended storage of fruit and vegetables or washing and trimming would seem unnecessarily restrictive.

Freshness and nutritional value depend in part on how quickly the product gets to market and on the care taken with the product in transit and on display. With modern distribution

systems, it is not always the case that local products get to market more quickly than products from further away. Rapid freezing of food can preserve nutrients more effectively than getting fresh food to local markets. If being produced locally gives a cachet to a fresh product that it would not otherwise have and consumers switch from less healthy alternatives, then local food can have a positive effect on health.

Frequency of Deliveries

Departments can set requirements for delivery frequencies, freshness, taste etc provided they are reasonable service and quality requirements and provided they are not designed to discriminate against non-local suppliers. Such criteria may however encourage local suppliers to bid for more public sector contracts.

Processing and Production Methods

The EC's Interpretative Communication on environmental issues in public procurement which is reflected in the Procurement Regulations confirms that methods of processing and production can be included in the technical specifications of the tender where these help to specify the performance characteristics of the product or service. This includes both process and production methods that "physically" affect the end product (e.g. absence of chemicals) and those that do not, but nevertheless affect the "nature" of the end product such as "organically grown foodstuffs". See also section on Assurance Schemes. In addition, as mentioned earlier, the Court in the Netherlands case has laid down that a method of production (fair trade) does not have to be linked to the intrinsic characteristics of a product ie, something which forms part of the material substance thereof.

Disaggregation

Disaggregation to avoid the provisions of the Procurement Regulations is illegal – i.e. breaking up the procurement need into separate contracts to ensure values remain below the EU price threshold and therefore fall outside the scope of the legislation. However, it is acceptable to split the contract into lots reflecting regional delivery points or categories of goods/services to meet business needs and achieve VfM - so affording a better chance for local suppliers – but this does not obviate the need to advertise the total procurement on a

European wide basis if the sum of the lots exceeds the EU threshold. The lots can be split in any way, e.g. by product or distribution area with suppliers able to bid for some or all lots. Within product groups, this can be further sub-divided (e.g. prepared and non-prepared vegetables), or services can be separated (e.g. tendering separately for food and distribution). Allowing for lots and then communicating this fact effectively among local and regional business can be a potentially effective method of furthering local food and ensuring security of supply.

Sample Clauses

Sample clauses to assist buyers to specify these requirements are set out in the next section.

SAMPLE CONTRACT CLAUSES

A. Raising Production and Process Standards

The Contractor shall:

1. Provide the Contracting Authority with credible assurance that all food provided meets current UK laws governing the sale and consumption of food, as covered by the Food Law Guide on the Food Standards Agency website
<http://www.food.gov.uk/enforcement/regulation/foodlaw/foodlawguide/>

2. Supply to the Contracting Authority with unprocessed commodities¹, lightly processed foods and drinks² and composite products³ produced in accordance with one or more of the following categories and shall supply the quantities for each commodity or item of food or drink listed under these categories, as identified in the Contractor's offer that was accepted by the Authority and forms part of the Contract⁴:

Category 1: Food produced in accordance with the standards set for the XYZ food assurance scheme or equivalent standard or, in the case of eggs in their shells, the Lion Egg standard or equivalent.

Category 2: Fruit, vegetables and cereals produced in accordance with the standards set for ABC food assurance scheme or equivalent. Meat and dairy products produced in accordance with the standard set for the DEF scheme or equivalent.

Category 3: Food produced in accordance with the requirements of EC Council Regulation 2092/91956 for organically produced food.

Category 4: Food produced in a manner that does not comply with categories 1, 2 or 3.

¹ Unprocessed commodities, such as fresh fruit and vegetables, honey, eggs, milk, cream, un-milled cereals etc.

² Lightly processed foods and drinks are food products that retain their raw recognisable form, such as meat, cheese, butter, powdered milk, flour, sugar etc.

³ Composite products containing several ingredients are covered by assurance

⁴ The authority will need to determine the level of weighting to be allocated for each category for the purpose of evaluating tenders. Tenderers need to know what the weightings are before they submit their offers. The authority should invite tenderers to specify what quantities of produce will be supplied under each category

If requested, the Contractor shall submit to the Authority evidence that the requirements for categories 1, 2 and 3 have been met. Furthermore, if requested by the Authority, the Contractor shall obtain and submit, at the Contractor's expense, independent verification that the evidence submitted to the Authority provides credible assurance that the Authority's requirements are being met.

Independent verification means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to ISO Guide 65:1996 (EN45011: 1998) (general requirements for bodies operating product certification systems or equivalent) and who is accredited to undertake such evaluations by a body whose organisation, systems and procedures conform to ISO 17011:2004 - General requirements for providing assessment and accreditation of conformity assessment bodies or equivalent.

B. Use of Fair Trade Products in Contracts

3. The Contractor shall:

Provide the Contracting Authority with fair trade options for all possible products required to service the contract. The Contractor must provide evidence that the proposed products meet fair trade standards by using the FAIRTRADE mark or equivalent and be able to demonstrate their fair trade source.

C. Management Information Requirements

4. Provide reports to the Contracting Authority (at the intervals and in a format agreed with the Authority) listing:

- The different food items supplied to the Contracting Authority during the period
- The total volume and value of each food item
- The source of origin of each food item (preferably giving the locality or region if produced within the UK). For composite food items the source of origin should be for the principle ingredient.

5. Adhere to the Meat and Livestock Commission's public sector specifications for cuts of beef, lamb and pork as a means of improving process standards, alternatively put in some of the key criteria for the products being bought, e.g. fat content, meat content.
6. Ensure that all meat is clearly labelled with country of origin and for:
 - Beef and veal, in compliance with EC Council Regulation 1760/2000;
 - Pork, provide the Authority with credible assurance that the pork has been produced from pigs raised in accordance with UK welfare legislation or equivalent requirements
7. Ensure that the origin and species of fish and fillets including the commercial name, method of production (if caught at sea or inland waters or farmed) and catch area is clearly labelled:
 - Clearly label any genetically modified products used, including the presence of any genetically modified ingredients used in the preparation of the food.

D. Distribution

8. The Contracting Authority is committed to and seeks to encourage sustainable procurement:
 - All vehicles should be serviced on a regular basis to enable optimum operational efficiency;
 - The contractor is encouraged to ensure that drivers are, during the contract period, trained to be environmentally conscious while driving to ensure that fuel efficiency is optimised.
9. The contractor shall agree a delivery schedule with the Authority and implement procedures for switching off the engines of delivery vehicles when stationary on the Authority's premises for longer than two minutes.

E. Packaging

[Authorities should consider whether to include this section in any particular tender / contract. For example, in the case of greengrocery it will rightly support those greengrocers who make up “splits” in reusable plastic crates rather than disposable cardboard boxes. More generally it will encourage distributors of all kinds to use packaging that can be returned to manufacturers/suppliers for reuse rather than having to be disposed of.]

10. The Contractor shall:

- Retain ownership of and take back all packaging materials unless otherwise agreed in writing by the parties;
- Collect any packaging left at the Authority’s premises within the period agreed in writing between the parties. Where no period is specified the Contractor shall return to the Authority’s premises within seven working days of the issue of notification in writing by the Authority that packaging is to be collected by the Contractor. Any packaging materials, which are not collected by the contractor within the agreed period, will be disposed of by the Authority and the contractor will be charged for all the associated costs of disposal. Where exceptionally it is agreed in writing between the parties that the Authority is obliged to return packaging materials to the Contractor then the Authority accepts no liability in respect of the non-arrival at the Supplier’s premises of empty packages returned by the Authority unless the Supplier shall within ten days of receiving notice from the Authority that the packages have been dispatched notify the Authority of such non-arrival.

11. Unless otherwise agreed in writing between the parties:

- Ensure that the use of packaging materials is kept to a minimum commensurate with the proper protection of the produce in transit;
- Use recycled materials in the manufacture of crates, pallets, boxes, cartons, cushioning and forms of packaging, where these fulfil other packaging specifications;
- If requested in writing to do so, produce evidence to satisfy the Authority recycled materials have been used;

- Use packaging that is capable of recovery for further use or recycling; and
- Review packaging specifications periodically to ensure that no unnecessary limitations on the use of recycled materials exist.

F. Food Waste

12. The Contractor could:

- Plan and implement a suitable Food Waste Minimisation Management Plan (or equivalent) and report on performance in line with targets for resource efficiency. Where specific data does not currently exist the plan should be adapted to enable monitoring and measurement along with appropriate responsibilities.

G. Frequency of Deliveries

13. The EC Treaty, the EU procurement directives and the UK Procurement Regulations that implement them are designed to ensure that public procurement is fair, transparent and non-discriminatory. This means for example that the distance travelled to deliver food, or the locality in which it is produced, cannot be a specific factor in awarding the contract, as this would be discriminatory. It is however permitted for public sector contracting authorities to set reasonable requirements for delivery frequencies, freshness, taste etc. Such criteria may appear to give local suppliers a competitive advantage but provided a foreign supplier is not denied an opportunity to compete on equal terms by, for example, setting up an operation in Northern Ireland - then such criteria are legitimate. However it is not permissible to require the supplier to employ local labour because that would be a discriminatory condition to set.