



<b>POLICY:</b>	Procurement Policy
<b>FIRST DRAFT:</b>	Version 1, Approved, BR2014#04 Version 2 (this version) approved ET2021#08
<b>ADOPTED:</b>	Version 1 - BR 2015#01
<b>AMENDMENTS:</b>	ET 2015#03; ET 2021#04; ET 2021#08
<b>REVIEW:</b>	Annually

## **Introduction and Scope**

This Mary Immaculate College (MIC) Procurement Policy governs the procurement and purchase of all goods and services by or on behalf of the College. Its objective is to maintain a legally compliant approach to purchasing. The policy applies to all non-pay spend in respect of the acquisition of goods and services across the College. The policy is applicable irrespective of the source of funding to be used.

## **MIC Policy Statement**

Procurement objectives are:

- To comply with all relevant Government [legislation](#);
- To avoid risk in non-pay spend and acquisition;
- To adhere to public procurement and Government rules and regulations in procurement;
- To secure maximum value for money (VFM).

To fulfil these objectives, the College also applies procedures and processes to ensure that:

- Competitive bidding and tender processes are performed according to the [MIC Procurement Thresholds](#);
- Suppliers are appropriately selected and authorised;
- Suppliers are monitored for financial and non-financial performance;
- Goods and services are purchased only with proper authorization;
- Goods and services received are correctly recorded;
- Payments are only made for goods and services received and authorised by an MIC purchase order number.

For all purchases in the College where the contract value is to exceed € 24,999 in value – the MIC Procurement department is to be contacted at outset of the requirement / process to purchase.

## **General Principles**

This Procurement Policy recognises that a combination of centralised and departmental purchasing is the most appropriate method to achieve the purchasing objectives of the College. Departments must use centrally negotiated contract agreements (where they exist), including Consortium contracts, in order to maximise purchasing power for the whole College and to obtain optimum value for money. In specialist areas the technical needs of a department will determine the specification, and the Procurement Office will help to arrange competitive quotations/tenders as appropriate, assisting departments to meet the terms of this policy. It is mandatory to use contracts established by the [Office of Government Procurement \(OGP\) Service](#).

## **Operational**

The following appendices are part of this policy:

- Appendix 1: Responsibility for Purchasing in the College
- Appendix 2: Purchasing Policy
- Appendix 3: Legislative Requirements
- Appendix 4: Non-adherence to Policy

## Appendix 1 Responsibility for Purchasing in the College

### 1.1 Finance and Resource Committee

The Terms of Reference for this committee include the clause:

To review the College's policies governing finance and resources, together with any changes proposed from time to time by the College Executive Team, and to make recommendations to *Udarás Rialaithe* for any changes.

### 1.2 Audit and Risk Committee

The Terms of Reference for this committee include the clauses:

The Committee shall consider the system of internal financial controls and satisfy itself that the control environment is adequate and that controls are operating effectively;

The Committee shall satisfy itself that arrangements are in place to promote economy, efficiency and effectiveness;

### 1.3 Vice President of Admin and Finance

The Vice President of Administration & Finance (VPAF) is responsible for the financial administration of the College, including formal review of the procurement policy. The policy is kept under regular review.

In addition the VPAF is responsible for:

- a) Ensuring the availability of appropriate centrally negotiated contracts for use in the purchase of goods and services by departments, where aggregation of budget spend yields demonstrable VFM benefit and/or such a contract reduces legal or contractual risk to the College;
- b) Ensuring that all purchasing contracts entered into by the College maintain and protect the best interests of MIC;
- c) Provision of up to date guidance on legislation applicable to Higher Education Sector Procurement including:
  - European Union Supplies/Services/Works/Directives
  - Government Procurement Policies
- d) Co-ordination of training for staff involved in purchasing activities throughout the College.

In addition – the Director of Finance, VPAF or College President has the power to authorise any purchase deemed necessary under an urgent situation (see the [MIC Emergency Procedure](#)).

### 1.4 The Procurement Office

The Procurement Office is responsible for:

- a) Provision and publication (distribution and sharing) of supplier contracts, contract information, terms and conditions;
- b) Provision of a purchasing advisory and facilitation service (to include sourcing, advice on and help with drawing up of specifications, tendering, contract negotiation, pre and post-purchase assessments of tenders);
- c) Liaison with the [Office of Government Procurement](#) (OGP), Education Procurement Service (EPS), the Local Government Operational Procurement Centre (LGOPC) and other support bodies;

- d) Manage all OGP Frameworks and Drawdowns from OGP Frameworks;
- e) Management of all tenders over €25,000 per contract with the support of the Department Budget Holder;
- f) Support Budget holder with contractual performance issues with suppliers.

## 1.5 Budget Holders

**1.5.1** Vice Presidents, Deans of Faculty, Heads of Department (HoD) and Research Project Principal Investigators (PIs) may become budget holders and thereby acquire authority to incur expenditure. Budget holders are responsible and accountable for ensuring that the procedures set out in the MIC Procurement Policy are applied to all purchases of goods and services within their budgetary authority. *Inter alia*, the Budget Holder must ensure:

- a) The use of Contracted Suppliers (within the terms of the contract) where applicable. These are listed on the College website;
- b) The use of Agresso Purchase Orders for the purchase of all goods and services;
- c) That staff engaged in purchasing activities liaise with their own department and the Procurement Office whilst conducting any pre-and post-tender negotiations;
- d) That staff engaged in purchasing activities understand the College's objectives and adhere to the MIC Procurement Policy;
- e) That procedures set out in MIC Procurement Thresholds are adhered to according to the level of expenditure (any purchase greater than €25,000 (exclusive of VAT) or cost of a contract greater than €25,000) be brought to the attention of the Procurement Office immediately.

**1.5.2** The Budget Holder may enter into contracts for the supply of goods and services only where:

- a) A centrally OGP/MIC negotiated contract does not exist;
- b) The value of the intended purchase is less than €25,000 per contract for goods and services and €50,000 for works and works related contracts;
- c) The requirement relates directly to the technical specialty of the department (i.e. it is for items uniquely purchased by that department alone);
- d) Procurement Office advice is sought before any contract is placed.

A written record of all contracts and agreements entered into must be maintained within the department and the Procurement Office for audit purposes and in case of any future contractual challenge.

### 1.5.3 Delegation / Transfer of Authority

The Budget Holder cannot delegate purchasing authority. A more senior staff member may temporarily fulfil a Budget-holder's duties in exceptional circumstances. Any transfer of purchasing authority must be notified in advance and in writing to the Finance Office.

## 1.6 Record Keeping

The Budget Holder is responsible for ensuring that records and systems are appropriately maintained and administered for all purchases, as specified in this Procurement Policy. Document retention procedures must be complied with in accordance with the MIC Record Keeping Policy.

The Procurement Officer will also retain copies of all public procurement processes and contracts.

### **1.7 Advertising**

All contracts with a value of €25,000 or more must be advertised on the Irish Government tendering portal [www.etenders.gov.ie](http://www.etenders.gov.ie), by the Procurement Office. The advertising threshold for works and works related services is €50,000 (exclusive of VAT.)

### **1.8 Capital Projects & Maintenance of the Estate**

For capital projects the College follows the guidelines and procedures set down by the HEA and the [Capital Works Management Frameworks](#). An internal team comprising the Capital Projects Group will oversee all capital projects. External Consultants will generally be appointed for capital projects including a Project Manager. Part of the remit of the Project Manager will be to ensure that national and international public procurement guidelines are adhered to and to advise the College in all such matters.

## Appendix 2 Purchasing Policy

### 2.1 Competition

Fair competition shall be used and encouraged at all times consistent with the objective of:

- i. Compliance with Government procurement rules applicable to the Public Sector;
- ii. Securing maximum VFM for all College purchases;
- iii. Compliance with EU Procurement Directives are applicable.

### 2.2 Office of Government Procurement Direct Draw Downs Contracts

Where a call-off contract exists for the supply of goods and services the contract will already have been subject to the necessary level of competition and shall therefore always be used in preference to any other supply arrangement. It is not necessary to obtain further competitive quotations and orders may be placed directly with the supplier. The procurement office will manage the Notification to Activate Goods/Services Form with the Office of Government Procurement (OGP), Vendor and MIC Budget holder.

### 2.3 Preferred Supplier

Where the Procurement Office has identified from a Framework Contract a preferred supplier (usually following a tender) this supplier becomes Mary Immaculate College's Contracted supplier and must be used in preference to any other supplier available on that Framework. Failure to use a vendor that has been awarded the MIC business through a successful tender may put MIC at legal risk. Advice about Preferred Suppliers may be sought from the MIC Procurement Office.

### 2.4 Tendering Thresholds

Goods/Services required with the contract value of over € 25,000 must contact Procurement Officer to arrange the correct procurement strategy which must include an advertised tender on eTenders.

Works Contracts/Engineering Services must contact the Capital Projects Team through the VPAF to arrange the correct procurement strategy where the following requirements will apply:

Between €5,000 and €50,000: invite at least 3 Quotations;

Between €50,000 and €250,000 Formal Advertising using open procedure through eTenders (Non- Official Journal of the EU (OJEU) Notice);

Between €250,000 and EU Threshold – Formal Advertising – Choice of Procedures through eTenders (Non OJEU Notice);

Above EU Threshold – formal advertising inviting tenderers and advertised on OJEU;

### 2.5 E U Directives

Purchasing within the College is subject to the legislative requirements of EU Regulation and Directives as embodied in, and enforceable through, Irish law. EU Directives require that tenders above "Threshold Values" at any given time are open to European Competition. These tenders must be published in the supplement to the Official Journal of the European Union (OJEU), and a set process with prescribed timescales for tendering and other processes must be followed. Below the Threshold Values there needs to be competition to satisfy the Irish Government Procurement Rules, and the general principles of Non-Discrimination, Equal Treatment, Transparency, Mutual Recognition and Proportionality need to be demonstrable.

## 2.6 Confidentiality

Arrangements between the College and its suppliers (including those relating to tenders, contracts and pricing) are strictly confidential to the parties directly involved. It is also a prerequisite for the College's participation in Government, Public Sector, and Higher Education sector consortia contract arrangements.

## 2.7 Conditions of Contract

MIC Standard Terms and Conditions of Contract (Purchase) terms and conditions (T&Cs) must be used when entering into contracts for the supply of goods or services where a centrally negotiated contract does not exist. These T&Cs protect the interests of the College in the case of dispute regarding the contract and ensure that legal requirements are met, and obligations appropriately discharged.

Suppliers may still seek to impose their own Conditions of Contract. Purchasers should consult the Finance Office before agreeing to apply these to a contract. Legal advice may be required in these cases.

## 2.8 Making a Purchase

MIC Purchasing Procedures must be followed for all purchases of goods and services from funds administered by the College. This applies regardless of the source of funds to be used.

- An MIC Agresso Purchase Order (PO) must be raised for all purchases, the number of quotes required as per the [MIC Procurement Thresholds](#).
- An approved PO must be given to the supplier for every purchase made. The supplier should reference the MIC PO on their invoice to MIC.
- Payments in advance of delivery should not be made without Finance or Procurement Office approval.
- Regular period end reviews of all departmental Open Purchase Orders should be made and prompt actions taken to resolve / close them by Finance office team.
- All assets purchased must be managed in compliance with the MIC Fixed Assets Policy.

## 2.9 Leasing

Lease contracts generally run over a predefined number of years with a commitment to a third party such as a Finance Company. Discontinuing an agreement is almost impossible without a severe financial penalty, and matters such as title to the residual asset need to be carefully considered.

Leasing requires prior consultation with, and the written agreement of, the VPAF.

## 2.10 Ethics in Purchasing

MIC and its employees shall act ethically and must not accept inducements from suppliers. They should have particular regard to:

- Conflicts of Interest
- Hospitality offers
- Inducements of merchandise

### Appendix 3 Legislative Requirements

MIC employees with purchasing authorisation must comply with the requirements of applicable legislation.

Specific legislation regulating purchasing procedures in MIC includes the following:

- OGP Guidelines: <https://ogp.gov.ie/public-procurement-guidelines-for-goods-and-services/>
- EU Procurement Directives 2004
- Late Payment in Commercial Transactions Act 2002
- Sale of Goods Act 1980
- Freedom of Information Act 1997 & Amendment 2003
- Transfer of Undertakings (TUPE) 1980
- Waste Electrical and Electronic Equipment (WEEE) Directive 2002/96 EC
- Safety, Health & Welfare Act 2005
- Protection of the Environment Act 2003

#### Government Circulars

The following government circulars must be followed in respect of public sector purchasing;  
<https://ogp.gov.ie/guidelines-sub-menu-procurement-legislation/#>

In addition the procurement thresholds outlined on the College website, below, are based on current legislation:

- [MIC Procurement Thresholds](#)

#### **Appendix 4 Non-Adherence to Policy**

Through the adherence of MIC and its employees to the MIC Procurement Policy and its Standard Terms and Conditions of Contract (Purchase), the College is committed to ensuring compliance with applicable legislation. Non-compliance will be dealt with as follows:

4.1 Failure to use contracted suppliers i.e. those that have already been subject to an appropriate competition thereby ensuring VFM will result in:

- a) An initial warning that a breach of College Procurement Policy has occurred, in that an inappropriate supplier has been used with a reminder to utilise the contracted supplier in future.
- b) On a second occurrence, withdrawal of purchasing authority may be imposed and / or disciplinary action taken against the person responsible.

Where no existing contract is available, failure to conduct an appropriate competition for the supply of goods or services will result in:

- a) An initial warning that a breach of College Procurement Policy has occurred, in that a competition should have been conducted and must be conducted in future.
- b) On a second occurrence, withdrawal of purchasing authority may be imposed and / or disciplinary action taken against the person responsible.