

## **Higher Education Authority Procedure for Authority Approval of Institute of Technology Land Acquisitions**

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**Decision sought:** Approval of protocol attached as a process for consideration by the HEA of property acquisitions by institutes of technology

**Background and context:**

This Memorandum is a response to the Authority's request to the Executive to prepare a protocol setting out the process to be followed by the HEA in exercising their statutory role to grant approval for proposed land acquisitions by the Institutes of Technology.

It should be noted that property transactions, purchases and disposals are generally unique and opportunistic in nature and are often completed within a short timeframe. On this basis, the HEA endeavours to provide whatever resources are necessary to examine a proposal without any delay. Failure to acquire or dispose of a parcel of land due to a delay in the approval process could/would have a long term negative effect on the ability of an institution to develop in line with its strategic and master plans.

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## **Protocol**

This protocol covers property transactions, whether or not they require Exchequer funding.

Section 5 (1)(i) Regional Technical Colleges Act 1992, as amended by Section 6(a)(iii) Institutes of Technology Act 2006, requires the approval of the HEA for the acquisition of land by an Institute of Technology.

The primary responsibility for the management and control of an Institute's affairs and of all of its property lies with the Institute itself, its Governing Body and the President as its accountable person.

Taking into account the Institute's autonomy in the management of its affairs, the HEA's responsibility when considering land acquisitions is to:

- a) ensure due diligence has been performed by the Institute in arriving at its decision to purchase the land in question;
- b) ensure that proper appraisal procedures, to include due diligence, based on the Department of Finance - Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector (Capital Appraisal Guidelines) as set out below, have been adhered to;
- c) have regard to the implications of the acquisition for the efficient management of the resources of the Institute, and
- d) ensure that due weight is given to wider strategic, sectoral and national interests.

### **Appraisal Procedures**

The Capital Programmes Unit of the HEA undertakes a detailed technical appraisal of all exchequer-funded capital spending proposals (including construction projects and property transactions). The appraisal follows a standard methodology which is fully consistent with the principles of the Department of Finance - Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector (Capital Appraisal Guidelines). Capital Appraisal Guidelines recommend that the resources spent on appraisal are commensurate with cost and the degree of complexity of the issues involved. This methodology has been approved by the Department of Education and Skills.

The appraisal process includes the following steps:

### ***Strategic assessment***

1. Analysis of Institute's Strategic Plan for strategic fit and relevance (institutionally and nationally);
2. Analysis of Institute's Development Master Plan (if one exists) for strategic fit and relevance. In the absence of a Development Master Plan, an analysis of existing campus facilities and infrastructure, existing land holding for strategic fit and relevance;
3. Assessment of consistency with the National Strategy for Higher Education.

### ***Operational matters***

4. Assessment of value for money both in terms of cost in current market conditions and need;
5. Analysis of historic and projected student data and statistics generally;
6. Assessment of additional recurrent operational costs (if any) and funding arrangements to meet same.

***Due Diligence checks.***

1. Confirmation of Governing Body approval;
2. Independent property valuations - assessed to ensure valuations are up-to-date and objective;
3. Assessment of Institute's current financial status;
4. Evaluation of the source of funds where non-exchequer funds are available.

**Decision process**

Responsibility for the detailed evaluation of property transactions is delegated to the Capital Programmes Unit of the HEA in accordance with the above procedures.

Where a proposal has been successfully appraised by the Capital Programmes Unit and is recommended for approval, a summary of the proposal together with the recommendation will be presented to the Authority for approval.

## Appendix

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### Purchase of land by IoTs

Section 5 (1)(i) Regional Technical Colleges Act 1992, as amended by Section 6(a)(iii) Institutes of Technology Act 2006, requires the approval of the HEA for the acquisition of land by an Institute of Technology.

#### Regional Technical Colleges Act 1992

**s 5.**—(1) The principal function of a college shall, subject to the provisions of this Act, be to provide vocational and technical education and training for the economic, technological, scientific, commercial, industrial, social and cultural development of the State with particular reference to the region served by the college, and, without prejudice to the generality of the foregoing, a college shall have the following functions— ...

(i) subject to the approval of the Minister, to acquire land

#### Institutes of Technology Act 2006

**s 6.**—Section 5 of the RTC Act is amended—

(a) in subsection (1)—

(iii) in paragraph (i), by substituting “An tÚdarás” for “the Minister”

An equivalent amendment was made by the same Act to the relevant section of the Dublin Institute of Technology Act 1992.

#### Dublin Institute of Technology Act 1992

**s 5.**—(1) The principal function of a college shall, subject to the provisions of this Act, be to provide vocational and technical education and training for the economic, technological, scientific, commercial, industrial, social and cultural development of the State with particular reference to the region served by the college, and, without prejudice to the generality of the foregoing, a college shall have the following functions—

(i) subject to the approval of the Minister, to acquire land

#### Institutes of Technology Act 2006, Part 3

**s 31.**—Section 5 of the DIT Act is amended—

(a) in subsection (1)—

(iii) in paragraph (j), by substituting “An tÚdarás” for “the Minister”