Education Scotland
Foghlam Alba

Procurement Policy Manual

Guidance on the procurement policies that apply to Education Scotland Staff

For Scotland's learners, with Scotland's educators

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1. Introduction, scope, and legal framework

This Manual provides guidance on the procurement policies that apply to Education Scotland staff who participate in procurement activity. The Manual also highlights some key legal obligations and considerations. Adherence to the policies set out in this manual is mandatory for all staff.

Public sector procurement in Scotland takes place within a framework of rules and this Manual should be read in conjunction with these rules, which includes the following:

- Procurement Reform (Scotland) Act 2014
- Public Contracts (Scotland) Regulations 2015
- Procurement (Scotland) Regulations 2016

And if conducting Concessions or Utilities procurement (see Glossary) the following:
- Utilities Contracts (Scotland) Regulations 2016
- Concession Contracts (Scotland) Regulations 2016

Formal challenges and complaints may be brought against Education Scotland alleging a breach of these rules. The consequences of a successful challenge may, depending on the nature of the breach, result in Education Scotland being fined; the duration of a contract being shortened; award of damages against Education Scotland; and reputational damage to Education Scotland. Any challenges must be raised with Education Scotland Procurement and any correspondence from legal advisors challenging the procurement process or contract award decision must be forwarded to Education Scotland Procurement. Any such correspondence must also be saved to the appropriate electronic Record and Document Management system (eRDM) folder.

This manual should be read in conjunction with the above-mentioned legislation and:

- the Procurement Reform (Scotland) Act 2014: statutory guidance
- the Public sector procurement webpages, where specifically referenced in this manual

- the Client Guide to Construction Projects - which provides specific policy and guidance for public sector contracting authorities on the procurement of construction related contracts
- the Procurement Journey – provides guidance, best practice and templates* for Education Scotland as a public sector contracting authority on the procurement of goods, services
- the Sustainable Procurement Tools - designed to help public sector organisations identify and address how they can optimise the economic, social, and environmental outcomes of their procurement activity
- other guidance or tool updates issued by Scottish Procurement and Property Directorate, including Scottish Procurement Policy Notes - which provide updates on legal and procurement policy developments.

* To note, Education Scotland have bespoke branded templates for procurement processes based on the Procurement Journey and their use is mandatory. They can be downloaded from the Procurement Saltire pages.

The guidance set out in this manual and the rules set out in the Scottish Public Finance Manual are designed to ensure that procurement activity is:

- focussed on the delivery of Value for Money (VfM) - VFM is the optimum combination of whole life costs and quality to meet the customer's requirements
- conducted to high professional standards and to the relevant legal requirements; and
- conducted by appropriately trained and authorised staff to minimise the risk of legal challenge to Education Scotland and its employees.

In addition, to help us achieve the aims and priorities of our National Performance Framework, we are expected to conduct our procurement activities in a way which is:

- good for businesses and their employees
- good for society
- good for places and communities
- open and connected

These outcomes underpin SG Public Procurement Strategy for Scotland (PPSS).

The PPSS, which is based around the National Performance Framework, provides a high-level vision and direction for Scottish public procurement which the Scottish Government and all public sector bodies can align to and deliver against.

2. Definitions of procurement and Contract and Supplier Management (CSM)

Procurement is the process of buying goods, services and works from external suppliers. The procurement process typically includes:

- understanding customer requirements as set out in a customer specification
- reviewing existence and accessibility of current frameworks and contracts
- understanding current and evolving market capacity and capability to underpin and enable effective competition
- developing a commodity / service strategy or brief to maximise sustainable value, considering wider economic, social, and environmental outcomes as well as cost, quality, and timelines
- determining the procurement procedure and exclusion, selection, and award criteria
- issuing Invitations to Tender or invitations to quote
- evaluating bids or quotes
- awarding, implementing, and managing contracts
- obtaining and paying for purchases/orders

The purpose of CSM is to ensure the contract is successfully executed by monitoring supplier performance against the contract requirements in order to fulfil the requirement and realise the projected benefits and savings. CSM must be considered when developing a commodity / service strategy and carried out throughout the entire life of a contract. It is performed by the business area for whom the contract has been awarded, however support can be provided to business areas from ES procurement where requested. Collaborative framework agreements are managed strategically by SPPD. Call-off contracts under frameworks are managed by the Education Scotland business area who conducted the call-off competition. For more information on CSM responsibilities see the CSM section of this Manual.

3. Procurement thresholds

The estimated value of a contract determines which procurement regulations apply. The Procurement Reform (Scotland) Act 2014 applies to procurements with an estimated value of £50,000 (excluding VAT) or above for goods and services contracts, or £2,000,000 (excluding VAT) or above for works contracts.

Certain regulations apply to the procurement of contracts equal to or above the World Trade Organisation's Government Procurement Agreement (GPA) financial thresholds (see glossary for list of above GPA threshold regulations). These thresholds are revised every two years. Wherever VAT may be payable under a contract, an allowance for VAT must be included in the calculation of the estimated value of the contract for the purposes of determining whether the contract equals or exceeds the threshold values.

It is Education Scotland policy that contract opportunities are **not** disaggregated. In line with procurement legislation, procurement opportunities should not be subdivided for the purpose of reducing the total value so that it falls beneath a threshold (as detailed below) and thereby becomes exempt from procurement processes/regulations, which can be seen to be a longer process.

To note:

The procurement processes below are only for use when a framework contract **is not being used**.

Estimated Value (excluding VAT)	Education Scotland processes for use where a new bespoke competition is required by estimated value of requirement:
<£5000	**Low value – electronic procurement card (ePC)** Education Scotland staff can use the ePC for purchase of relevant goods and services **that follow** the guidance on usage **of the ePC**
<£5000	**Low Value Procurement – Invitation to Quote (ITQ)** Education Scotland staff can seek a minimum of one written (email) quote, using the guidance and templates provided.

£5,001 - £20,000	**Medium Value Procurement – Invitation to Quote (ITQ)** The Procurement Team will secure a minimum of three quotes via the Quick Quote facility on Public Contracts Scotland (PCS). • Staff should email their request to the Procurement Team to progress. Quick Quote must only be used where the Procurement officer: • ensures that there is no existing contract/framework agreement which could be accessed • satisfies themselves that using Quick Quote meets their obligations for adequate publicity, and • ensures that the procurement/mini competition is for low value/risk goods, services or works.
£20,001 - £50,000	**Medium Value Procurement – Invitation to Tender (ITT)** The Procurement Team will secure a minimum of three tenders via the Quick Quote facility on Public Contracts Scotland (PCS). • Staff should email their request to the Procurement Team to progress. Quick Quote must only be used where the Procurement officer: • ensures that there is no existing contract/framework agreement which could be accessed • satisfies themselves that using Quick Quote meets their obligations for adequate publicity, and • ensures that the procurement/mini competition is for low value/risk goods, services or works.
£50,000 - £112,515	**High Value Regulated Procurement** Staff should email their request to the Procurement Team and they will lead this process. All contracts will require a formal competitive tender to be advertised on PCS.
Estimated Value (including VAT)	
£135,018≥ (£112,515≥ excluding VAT)	**WTO GPA High Value Regulated – Tender Procurement - ITT process with strategy and CARR** All contracts with an anticipated value of **£135,018 including VAT** (£112,515 excluding VAT**)** and above are subject to the Public Contracts (Scotland) Regulations 2015 thresholds aligning with World Trade

	Organisation Government Procurement Agreement and should be advertised in the UK e-notification system called Find a Tender Service (FTS) via PCS. The Procurement Team will lead this process. Staff should email their request to the procurement mailbox.

Guidance notes and templates, for Education Scotland staff undertaking bespoke procurement requirements with a value of **up to £20,000,** can be downloaded from the Education Scotland Saltire Procurement pages. To note, ePC card guidance is on the Education Scotland Saltire Finance pages.

4. Procurement roles/responsibilities and Compliance

4.1 Delegated purchasing authority (DPA)

The Chief Executive is responsible for the scheme of Delegated Purchasing Authority (DPA) across Education Scotland. All procurement contracts must be awarded by an individual with the appropriate level of DPA. DPA is an internal control whereby authority is granted to certain permanent Education Scotland staff to enter into a contract for goods, services and works on behalf of Scottish Ministers, in writing. Procurement Officers and Delegated Purchasing Officers (DPOs) are responsible for conducting the process leading up to and including the award of a contract and any subsequent changes to that contract.

The DPA granted will specify the upper limit of contract value and type which the individual is authorised to award. DPA is personal to an individual only whilst they occupy their current position. DPA does not automatically transfer to their successor should they leave their current post. If DPA is to be withdrawn by the Chief Executive, this will be confirmed in writing. DPA should not be confused with financial / budgetary authority which is detailed in the Education Scotland Scheme of Delegation.

DPA is required for the following activities:

- conducting competitions where an existing contract / framework agreement does not already exist
- conducting mini-competitions or awarding a contract under a framework agreement (so long as the framework outlines that Education Scotland can call off from it)
- determining the appropriate approach (in line with the framework's buyer's guide) to use when calling off from a framework agreement (e.g. mini competition or ranked).
- using Dynamic Purchasing Systems (DPS)
- modifying an existing contract, providing that the contract allows for modifications or that approval to modify a contract has been authorised by the relevant official
- acquiring goods, services or works via the creation of a new contract

DPA is not:

- required to order or to receive goods, services or works which Education Scotland has already made a contractual commitment to buy, i.e., a single supplier framework
- required for purchases under £5,000 when the ePC is used

When undertaking direct purchases from single supplier frameworks, for anything other than routine and / or low value purchases, business areas must engage Procurement. If there is any doubt about this, discussions must be held with the Procurement Team.

Purchases made using the electronic Purchasing Card (ePC) must comply with the ePC procedures. Education Scotland Finance Team can advise.

4.2 Commitment of a contract

A contract is a legally binding agreement between Education Scotland and one or more suppliers, creating obligations enforceable by law. A procurement contract sets out the details of what Education Scotland is procuring, from whom, and the rights and obligations of the parties involved.

Legally binding contracts can be created by word of mouth, correspondence, or implied by the action of parties. Therefore, in discussions and correspondence with suppliers it is essential that staff take care to ensure that a commitment or contract is not unintentionally created. All Education Scotland procurement contracts awarded should normally be subject to Scots Law. For goods and services contracts, this is reflected in the Education Scotland terms and conditions which are based on Scottish Government Terms and Conditions (both SGTCs and model terms). For contracts where other terms and conditions are used (e.g. works), these should also be subject to Scots Law where possible. Any proposed change, amendment, or alternative form of conditions by any party to the contract, should in the first instance, be referred for approval to Procurement. In the case of high risk or high value contracts, Scottish Government Legal Directorate (SGLD) advice should be sought before agreeing to non-standard contract conditions.

4.3 The Single Procurement Document (SPD)

The SPD is a standard form that includes exclusion and selection questions. It is mandated for use in all Regulated Procurements above £50,000.
The aim of the SPD is to simplify the procurement process, especially for SMEs, by enabling bidders to self-declare that they have not breached any of the grounds for exclusion, and that they meet the relevant selection criteria. SPD Modules are available in Public Contracts Scotland (PCS). Guidance and documentation on the SPD can be found in the Procurement Journey. When carrying out Regulated Procurements, Procurement must take account of the mandatory and discretionary exclusion grounds which apply. These can be found in Annex B of the statutory guidance and further guidance can be found in the Procurement Journey. In all cases a bidder will have an opportunity to provide evidence that it has taken remedial action to demonstrate its reliability ("self-cleansing").

4.4 Notification of acceptance and rejection of bids

Acceptance or rejection of bids to suppliers must always be in writing. For procurements above GPA threshold where a Standstill Notice must be issued, the notice must be sent to all bidders as soon as possible once the preferred bidder has been identified, which commences a standstill period.
Should you wish, or be requested, to conduct a debrief meeting following issuing written notification of an unsuccessful bid then these must be carefully planned, reflect any information previously provided in any Standstill Notice or notification of unsuccessful bid, and only be conducted by experienced Procurement Officers. A record of the debriefing meeting must be securely stored.
For more information, please see the Procurement Journey contract award station.

4.5 Separation of duties

It is Education Scotland policy that there are at least two defined roles in a procurement process:

- the individual with the appropriate level of DPA who is responsible for ensuring that the procurement process fully complies with procurement policy and legislation.

- the budget holder/project manager – known as the Contract Manager who identifies the need and writes the business case to obtain necessary approval to spend, confirming that funds are available to make the purchase.

Anyone holding DPA must not:

- be responsible for any financial approvals connected with contracts that they have authority to approve.
- act as Budget Officer/Programme Manager; or
- be an approver on Oracle Cloud.

Proper separation of duties is essential in order to protect staff from accusations of impropriety and to reduce any risk of fraud.

4.6 Procurement Journey

The Procurement Journey provides step-by-step guidance and templates for the procurement of goods and services and Procurement refer to this throughout the procurement process. It has three routes according to the estimated value of the contract:

- Under £50,000 is known as unregulated or Route 1 procurement.
- Between £50,000 and up to the GPA threshold is a Regulated Procurement and sometimes referred to as Route 2 procurement.
- Equal to or above the GPA threshold is a Regulated Procurement and sometimes referred to as Route 3 procurement.

4.7 Competition and advertising

Contracts must be awarded through genuine and effective competition unless there are exceptional and justifiable reasons not to do so. Education Scotland's Procurement Officers are responsible for identifying the most appropriate procurement process that is likely to offer the best VfM.

As part of developing the commodity and service strategy, any existing contracts and framework agreements which are appropriate for the procurement should be used. The linked list is not exhaustive, and other frameworks may be available.

Caution must be exercised regarding the use of speculative frameworks. Some factors to be considered in this area can be found in SPPN 03/2017.

For purchases with a value under £5,000 (ex VAT) where there is no existing contract, an ePC may be used. It is good practice for the cardholder to obtain three quotes for purchases to ascertain value for money and to inform decisions. These quotes can be made in writing from the relevant suppliers. These quotes must be obtained before making a decision on the basis of VfM.

Procurement Officers will generally use Quick Quote (an online competition process within PCS) for procurements with an anticipated value of between £5,001 and £49,999 (both figures ex VAT). However, a decision may be made to conduct an open competition for a procurement with an estimated value within this range. Quick Quote is only used by the Procurement Team and:

- ensures that there is no existing contract / framework agreement awarded by or approved by SPPD which could be accessed
- satisfies themselves that using Quick Quote is a relevant and appropriate route to market
- ensures that the procurement / mini competition is for low value and / or low risk purchases

All Regulated Procurements must be advertised on PCS, however, for transparency, it is best practice to publish a contract notice for all contracts regardless of value. The award of a contract or the conclusion of a framework agreement must also be published on PCS. Exemptions to these publication requirements apply in certain circumstances.
For more information see regulation 33 and 51(6) of The Public Contracts (Scotland) Regulations 2015 and regulation 7(8) of The Procurement (Scotland) Regulations 2016.
For Research & Development services (e.g. procurements for innovative services) Pre-Commercial Procurement notices and Award notices should be published.

When determining advertising obligations, the calculation of the estimated value of the contract or framework (including potential options and/or possible extensions) should be conducted in accordance with the guidance outlined in Section 3 above.
PCS has more information in the Buyers' Area on how contracting authorities can meet their publication obligation. Please also see threshold and contract value estimation FAQs.

PCS can also be used to advertise subcontracting opportunities to promote a diverse and resilient supply chain, opening up opportunities for SME, Third Sector and Supported Businesses as appropriate. For more information please see SPPN 5/2019.

During Scottish election periods, procurement announcements or decisions might be affected by the restrictions that will be in place. Procurement Officers and DPOs should exercise caution when handling announcements and / or significant decisions during these times. Guidance will be published on Saltire outlining any restrictions during election periods, and Procurement Officers and DPOs must familiarise themselves with these. In cases of uncertainty or doubt, advice should be sought from your Line Manager or the ES Governance Team.

4.8 Non-Competitive Action (NCA)

It is Education Scotland policy that goods, services, and works must be bought by genuine and effective competition unless there are exceptional reasons to the contrary.

Buying goods, services or works without competition needs prior approval before any purchase is made. Approval is granted in exceptional circumstances only, where it is appropriate to depart from Education Scotland policy, and where obligations under procurement legislation have been considered.

Non-Competitive Action (NCA) is Education Scotland's internal process for considering requests to:

- dispense with competition and award a new contract directly to a specified supplier
- modify an existing contract where there is no clear, unequivocal clause to do so within the existing contract.

The decision on whether to authorise a NCA request is made on a case-by-case basis and is strictly limited to those situations where it is appropriate.
It is worth noting that lack of planning, resources, or effective project management (e.g. of scope, timelines, or risk) would be very unlikely to constitute sufficient grounds for approving a NCA request.

Situations where approval may be given include, but are not limited to:

- extreme urgency due to circumstances unforeseen by Education Scotland, covering the immediate need
- where there is only one possible supplier
- modifying an existing contract where the modification is not substantial.

Procurement must be consulted about any proposal to award a contract without competition or to modify a contract before an NCA can be submitted for approval.

- all requests to proceed with NCAs for new requirements of £5,001 and above must be approved in advance by the Head of Governance and Financial Management, Roz McCracken.

- NCAs to modify existing contracts, regardless of the value, where there is no clear unequivocal clause to do so within the existing contract, must be approved in advance by the Head of Governance and Financial Management, Roz McCracken.

Approval of a NCA request does not guarantee this will be free of challenge by another supplier (for higher value contracts this could include a challenge before the courts). For this reason, it is important robust, objective supporting evidence is provided as part of the request for NCA.

Please note the process involved in awarding a contract whether that be through a competitive procedure or as a result of a direct award (NCA) is very similar and so where a NCA has been approved, there is still a requirement to undertake many of the steps that would be otherwise required. These steps include carrying out the routine due diligence that should be undertaken in advance of entering into any contract on behalf of Scottish Ministers.

In all cases, the guiding principles are that NCA approval is by someone authorised to take such a decision and that person should have no other role in the award of the contract to ensure adequate separation of duties. For audit purposes, the NCA justification and approval must be formally recorded on eRDM along with robust supporting evidence.

4.9 Contract documentation

It is Education Scotland policy that documentation covering the key stages of the procurement of goods, services and works, over £5,000 is retained in the relevant contract file on eRDM. The Procurement Officer is responsible for ensuring that there is a file on eRDM for each contract and for ensuring that key documents are filed promptly.

For DPO's following the procedures for contracting to the value of up to £5,000 must retain all quotes you have received for this work for **one year after the contract end date**. You should hold the quotes in a centralised area in eRDM within your programme or project groups as it is possible that these quotes will be requested as evidence by the Auditors. It is the DPO's responsibility to make sure that these procedures are followed.

Education Scotland's templates and other guidance can be downloaded from the EDS Saltire Procurement page or on request directly from the procurement team.

4.10 Contracts register, transparency, and data protection

The Procurement Reform (Scotland) Act 2014 requires all public sector contracting organisations to keep and maintain a contracts register, and to provide an internet-based publicly viewable version of it. As a minimum, this is required to include all Regulated Procurements. The Procurement Team maintain Education Scotland's contract register and publish contracts with a value over £5,000.

Procurement Officers and DPOs must ensure their contracts and procurement processes are compliant with the Data Protection Act 2018. This can be achieved through the use of the Education Scotland's Terms and Conditions, which are based on the Scottish Government Terms and Conditions (SGTCs), and the Scottish Government privacy notice for inclusion with ITT documents. More information on this can be found in SPPN 2/2018.
Care should also be taken by Procurement Officers and DPOs with regards to Cyber Security. For further information, please see SPPN 2/2020.

The Procurement Officer who undertook the process in the lead up to the award of the contract must update the Education Scotland Contract register.

5. Procurement Strategy and Annual Procurement Reports

The Public Procurement Strategy for Scotland (PPSS) provides a high-level vision and direction for Scottish public procurement to which Education Scotland will align its Procurement Strategy. Procurement Officers and DPOs should familiarise themselves with the PPSS and Education Scotland's Procurement Strategy and consider how procurement exercises will help to deliver against these Strategies.

Annual Procurement Reports explain how procurement activities have complied with a contracting authority's Procurement Strategy in any given year. Publication of Annual Procurement Reports supports increased transparency. For this reason, and wider audit purposes, it is essential that records management is conducted throughout all procurement processes.

In addition to records management, good contract and supplier management (CSM) is crucial to support the reporting process. CSM helps to not only obtain savings, increase impact, and mitigate risk through the contract lifecycle, but also to ensure that information and data within the Annual Procurement Report are accurate and meaningful.
For more information on CSM please see the CSM section of this Manual as well as guidance provided in the Procurement Journey.

6. Value for Money (VfM)

Contracts must not be awarded on the basis of lowest price only, and contract award criteria must be specifically designed to assess and award on the basis of VfM.
The award stage will identify which of the eligible tenders will deliver best VfM. For Regulated Procurements this is established using the Most Economically Advantageous Tender (MEAT) criteria. It is Education Scotland policy that all contracts **over £20,000** are awarded based on MEAT, as well as a legal requirement for all contracts equal to or above the GPA threshold. In addition to the quality of products and services, Procurement Officers and DPOs must also consider factors such as the Sustainable Procurement Duty (for more information please see the Sustainable Procurement section of this Manual). In this context, Whole Life Costing and Life Cycle Costing should also be considered. Procurement Officers and DPOs must also be mindful of abnormally low tenders. Where a tender could be considered to be abnormally low, the price being proposed must be clarified by the Procurement Officer or DPO to ensure that it is valid and sustainable. For more information on abnormally low tenders please see the Procurement Journey for goods and services contracts.

7. Prompt Payment

Section 15 of the Procurement Reform (Scotland) Act 2014 requires contracting authorities to set out in their Procurement Strategy how they intend to ensure all payments made to contractors and sub-contractors are paid within 30 days of receipt of a valid invoice. Education Scotland is committed to paying its contractors promptly, targeting to pay valid invoices within 10 days of receipt, going beyond the contractual commitment to pay within 30 days.

SPPN 2/2022 provides guidance to ensure contracts are awarded to bidders with a good payment performance history and systems in place so that their supply chains are paid on time in accordance with the terms within their contracts. Prompt payment should be monitored as part of the contract management activity, addressing any shortfalls with the prime contractor during the life of the contract to ensure the reliability of the supply chain. It is the prime contractor’s responsibility to monitor and support prompt payment to all sub-contractors involved in delivering a public contract.

8. Sustainable Procurement

Education Scotland is committed to buying goods, services and works in a sustainable manner. Sustainable public procurement aims to make better use of public money, helping us to achieve our overarching purpose and strategic objectives.

Education Scotland will derive the greatest benefits through ensuring that sustainability is embedded and proportionately applied to all its procurement decisions and activities.

The Sustainable Procurement Duty requires that, before a contracting authority carries out a Regulated Procurement, it must consider how it can improve the economic, social, and environmental wellbeing of the area in which it operates, and in carrying out the procurement, to act with a view to securing improvements so identified. The duty also requires contracting authorities to consider how their procurement process can facilitate the involvement of SMEs, third sector bodies and supported businesses, and how the procurement can be used to promote innovation.

Information on sustainable procurement policies can be found on the Public sector procurement policy webpage.

Guidance and support are available, which includes statutory guidance on the Sustainable Procurement Duty and the Sustainable procurement tools (these tools include e-Learning, Guidance and Case Studies), as well as the guidance on measuring social impact in public procurement in SPPN 10/2020. This suite of support can help identify and address opportunities to optimise the economic, social, and environmental outcomes of procurement activities, and can help meet procurement obligations in the following areas:

8.1 Equality

Education Scotland is committed to advancing equality through public procurement. For more information on Equality and procurement, including the Fairer Scotland Duty, please see public sector procurement policy webpage.

8.2 Human rights

Those we contract with should take a robust approach to human rights in any part of their business including their supply chain. Guidance has been published for contracting authorities on reducing the risk of human trafficking and exploitation in the performance of public contracts (SPPN 3/2020).

8.3 Fair Work First (FWF)

Fair work is central to achieving the Scottish Government's priority for sustainable and inclusive economic growth. FWF is the Scottish Government's policy for driving high quality and fair work across the labour market in Scotland. For more information on FWF procurement policy, please see the Fair work SG procurement webpage.

8.4 Community benefits

Community Benefits are enshrined in the Procurement Reform (Scotland) Act 2014 through a specific provision to consider their use for all contracts of £4 million or more. Community Benefits in public procurement contribute towards achieving the aims of the Sustainable Procurement Duty and should therefore be considered for contracts valued lower than £4 million, wherever relevant and proportionate.

For more information on Community Benefits policy, please see the Community Benefits in SG procurement webpage.

8.5 Climate change

The Scottish Government is committed to using public procurement to contribute towards the strategic priority of transitioning to a more resource efficient, lower carbon economy. Procurement Officers and DPOs have a responsibility to be climate literate and to understand how contracting activities can support net-zero aspirations throughout the contract duration and must undertake Mandatory Climate Literacy e-Learning.

Help and support in addressing climate change through procurement is available in SPPN 3/2022. For more information on climate change and procurement policy, please see the Procurement and Climate Change webpage.

8.6 SMEs, Third Sector Bodies, and Supported Businesses

The Sustainable Procurement Duty places an obligation on contracting authorities to consider how procurement processes can improve the economic, social, and environmental wellbeing of their area, and facilitate the involvement of SMEs, third sector bodies and supported businesses.

Procurement Officers and DPOs must be mindful of this Duty when creating their commodity / service strategy.

In line with principles of equal treatment and proportionality and the general duty in section 8(1) of the Act, it is Scottish Government policy that the costs associated with submitting a bid be kept to a minimum, and barriers to participation by small firms, the self-employed and the third sector should be removed where possible.

In order to help facilitate access to public contracts, simplicity is key, and it is important to consider all available mechanisms to encourage participation by smaller businesses, including micro-businesses. These mechanisms include simplifying specifications, breaking larger requirements into smaller requirements (lotting), the use of Quick Quotes, and the creation and advertising of subcontracting opportunities. Procurement Officers seek advice on how to apply these mechanisms, by reviewing:

- SPPN 9/2020 - supply chain resilience and diversity
- SPPN 5/2019 - advertising subcontracting opportunities on PCS
- SPPN 4/2017 - reserving contracts for supported businesses
- Section 3.5 of the Statutory Guidance - facilitating the involvement of SMEs, the third sector and supported businesses.

8.7 Innovation

Public procurement has a key role to play in enabling innovative goods, works and services. The Sustainable Procurement Duty requires contracting authorities to consider how to promote innovation in their Regulated Procurements. PCS has innovation notices to help Procurement Officers and DPOs engage with the market as well as procure research and development contracts and provide reporting on innovation. The Procurement Journey and SPPN 3/2023 have more information on how to consider research and development and how to procure innovative solutions / goods.

9. Consultancy services

It is Education Scotland policy that robust procedures must be followed for the procurement of consultancy services to ensure that these resources are used sparingly, appropriately, and effectively. Before any procurement process for consultancy services takes place, a business case must be prepared and approved, based on the amount Education Scotland expects to pay for the requirement.

The Scottish Government consultancy procedures provide further information. Approval levels for procurement of consultancy services in Education Scotland are:

Value	Approver
Up to £50,000	Chief Executive
Over £50,000	Submissions for approval must be endorsed by the Chief Executive. The Cabinet Secretary for Finance and Constitution must approve expenditure.

10. Contract and Supplier Management (CSM)

In discussions with the customer (i.e. the business area) Procurement Officers and DPOs should ensure that all parties, particularly the customer, are clear on ownership of CSM activities and that a contract manager must be appointed for Education Scotland's contracts. The SPFM requires that the contract manager is a permanent member of staff. CSM guidance is provided in the Procurement Journey. (Route 3)

Before taking on any CSM responsibilities, Procurement Officers and DPOs should also familiarise themselves with the Scottish Government Contract Management Handbook, which provides guidance on CSM (for Regulated procurements), and sets out the responsibilities of a contract manager.

Contract managers who manage contracts that are in scope of the list below, will be required to follow annual checks on supplier insurances. The Procurement Team will run annual credit checks on suppliers in scope.

- bespoke Education Scotland or
- where a Dynamic Purchasing System (DPS) or
- where a Crown Commercial Service (CCS) call off was used,
- that have a contract term over 12 months,
- and over £50,000.

If additional Contract and Supplier Manager support is required, contact Education Scotland procurement team in the first instance and they will arrange for our SG Procurement Shared Service colleagues to provide support.

Contract management guidance for under Regulated value i.e., up to £50,000 procurements is provided in the Procurement Journey. (Route 1)

11. Ethical standards and gifts and hospitality

All civil servants are required to comply with the Civil Service Code, carrying out their role in adherence to the code's core values of integrity, honesty, objectivity and impartiality.

All procurement activity must be conducted with propriety and to the highest professional standards at all times, ensuring that suppliers and potential suppliers are treated fairly at all stages of the procurement process.

All staff must exercise care if offered gifts or hospitality. When considering whether it is appropriate to accept a gift, reward, benefit, or any other form of hospitality which has been offered, refer to criteria that can be found in Scottish Government guidance.

Further guidance on ethical standards and expectations is detailed in the Scottish Public Finance Manual and Standards of Conduct on Saltire. Procurement Officers, DPOs, and all other staff involved in procurement must read and familiarise themselves with this guidance.

Procurement Officers, DPOs, and other staff who work in procurement-related roles are strongly encouraged to undertake the CIPS Ethical Procurement and Supply e-Learning and online test annually. For non-CIPS members, there is a charge associated with this e-Learning.

12. Conflicts of interest in procurement

Staff are legally required to act with honesty and integrity, and must not abuse their position for personal gain, to further their own personal interests or the interests of others (e.g. family and friends). Staff also have a duty to ensure that no appearance of bias or misuse of position is given or can be inferred through their conduct. Any actual, potential, or perceived conflicts of interest (e.g. owning shares in a supplier, or family / friends being employed by a supplier) which arise in the course of a procurement must be declared. For procurements subject to the Scottish public procurement regulations this is a legal consideration.

Procurement Officers and DPOs must also take appropriate measures to prevent, identify, and remedy conflicts of interest arising in the course of all other procurement procedures (i.e. those below the GPA threshold) so as to avoid any distortion of competition and to ensure equal treatment of all bidders.

13. Fraud response procedures and anti-competitive practices

The risk of fraud must be appropriately managed by ensuring that inherent fraud risk within procurement is identified and assessed, with specific counter-fraud controls and mitigation activity in place to minimise exposure to these risks. Education Scotland policy on the detection, reporting and handling of fraud is available in the SPFM.

In accordance with the Fraud Response Plan, any suspected or confirmed cases of fraud, bribery or corruption, must be reported as soon as possible to the Head of Governance and Financial Management, who will advise on further reporting where necessary, and on investigation.

Procurement Officers and DPOs must also be alert to anti-competitive practices, such as collusion and conflict of interest, cartel activity and bid rigging practices.

Audit Scotland and Police Scotland have published information which Procurement Officers and DPOs can use to identify Procurement Red Flags.

The Competition and Markets Authority has detailed information and a free e-Learning module which covers anti-competitive practices in procurement. Where further advice is required in relation to any suspected fraud or irregularity, or in relation to fraud risk management and counter-fraud control, contact should be made with the Counter Fraud Service.

ANNEX A: Glossary

- Above GPA Threshold Regulations – namely, the Public Contracts (Scotland) Regulations 2015; The Concession Contracts (Scotland) Regulations 2016; The Utilities Contracts (Scotland) Regulations 2016

- Bidder – used as a general term throughout the Manual to encompass bidders, tenderers and, in the case of restricted procedures, candidates.

- Contracts register – a register of contracts which includes, as a minimum, all Regulated Procurement contracts.

- Delegated Purchasing Authority (DPA) – the authority to conduct the process leading up to, and including, the award of a contract for goods, services and works.

- Delegated Purchasing Officer (DPO) – a member of staff with Delegated Purchasing Authority, who undertakes some procurement duties as part of their work.

- Electronic Purchasing Card (ePC) – a corporate charge card used for low value, ad-hoc purchases that are not covered by existing contracts or framework agreements for transactions of up to £5,000 (excluding VAT) or less.

- Electronic Record and Document Management (eRDM) – Education Scotland's official electronic record and document management system.

- Find a Tender Service (FTS) - is the system for higher-value, public contract opportunities (tenders) within the UK. Both Public Buyers and Suppliers can use the Find a Tender Service. For Public Buyers, the use of the portal is in compliance with Public Contract (Scotland) Regulations 2015.

- Framework agreement – an agreement between a contracting authority and one or more suppliers for the supply of specified goods, services or works over a period of time. The framework agreement has agreed terms and conditions, defined pricing structure and if appropriate quality requirements. The main difference between a framework agreement and a contract is that a framework does not state the quantity of the goods, services or works, or when they will be bought. Individual contracts specifying the quantity and timescale are awarded under the terms of the framework agreement.

- GPA threshold – financial threshold values which are used to determine whether a public contract falls within the scope of the Public Contracts (Scotland) Regulations 2015, the Utilities Contracts (Scotland) Regulations 2016 or the Concession Contracts (Scotland) Regulations 2016. These threshold values are updated on the 1st of January every two years.

- ITQ and ITT processes – bespoke Education Scotland processes for procuring services where a framework contract does not exist.

- Public Contracts Scotland (PCS) **-** the national advertising portal used to advertise all Education Scotland goods, services or works contract opportunities.

- Procurement Journey – guidance for public sector buyers who procure goods, services and care and support services.

- Procurement Officer – an Education Scotland procurement team member of staff with or without Delegated Purchasing Authority, who undertakes procurement as the main function of their role

- Scottish Procurement Policy Notes (SPPN) - guidance issued by Scottish Procurement providing updates on legal and procurement policy developments.

Documentation control

This guidance is owned and maintained by Education Scotland Procurement

	Effective date	Changes made
Version 1.0	06/11/2014	Initial draft for approval
Version 1.1	15/06/2015	Quick Quote value amended to up to £50,000.
Version 1.2	24/07/2015	Over £2.5k request to come to Procurement
Version 1.3	07/04/2016	Contact details update
Version 1.4	01/09/2016	Updates to EU threshold
Version 1.5	30/08/2018	Updates to EU threshold
Version 1.6	15/02/2020	Updates to EU threshold; procurement mailbox;
Version 1.7	10/02/2021	Updates to WTO GPA; retention of 'up to £2,500' quotes
Version 1.8	17/03/2022	Update to include VAT in WTO GPA High Value Regulated procurements;
Version 1.9	05/05/2023	Refresh; contact details update;
Version 2	07/06/2024	Updates in line with new SG policy manual
Version 3	01/04/2025	Updates to ES Thresholds for low value procurement
Version 3.1	01/01/2026	Updates to GPA Thresholds aligning with SPPN 4/2025

Contact

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