

Procurement Policy manual

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1. Introduction, scope and legal framework

This Manual provides guidance on the procurement policies that apply to Scottish Government (SG) procurement activity. The Manual also highlights some key legal obligations and considerations. The Manual is mandatory for core Scottish Government and any other body where their Framework document or other express agreement with SG specifies this Manual is applicable. As mandated in the Scottish Public Finance Manual, Executive Agencies and Non-Departmental Public Bodies (NDPBs) should follow the principles set out in the SG procurement policy manual, but may have different documented procedures and processes in place (e.g. in relation to NCA approvals, ePC procedures, records management systems, and DPA levels). We also strongly encourage other SG sponsored bodies to follow the principles of the Manual, and regardless, they should comply with the [Scottish Procurement Policy Handbook](#), which is applicable to the wider Scottish public sector.

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](#)
- [The Public Contracts \(Scotland\) Regulations 2015](#)
- [The Procurement \(Scotland\) Regulations 2016](#)

And if conducting Concessions or Utilities procurements (see Glossary), then the following:

- [The Concession Contracts \(Scotland\) Regulations 2016](#)
- [The Utilities Contracts \(Scotland\) Regulations 2016](#)

Please note that failure to comply with the legislation and policies as set out in this Manual may result in formal challenges and complaints being brought against the Scottish Government alleging a breach of these rules. The consequences of a successful challenge may, depending on the nature of the breach, result in the Scottish Government being fined; the duration of a contract being shortened; award of damages against the Scottish Government; and reputational damage to the Scottish Government.

SPPD must be notified by business areas of any correspondence from suppliers' legal representatives challenging the procurement process or contract award decision. Any such correspondence must be saved to the appropriate electronic Record and Document Management system (eRDM) folder and forwarded to the [SPPD mailbox](#).

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 public sector contracting authorities on the procurement of goods, services and care and support 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

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:

- focused on the delivery of Value for Money (VfM)
- conducted to high professional standards and to the relevant legal requirements
- conducted by appropriately trained and authorised staff to minimise the risk of legal challenge to the Scottish Ministers

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 our [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 public 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 usually performed by the business area for whom the contract has been awarded, however support can be provided to business areas from SPPD where requested and paid for. Collaborative framework agreements are managed strategically by SPPD. Call-off contracts under frameworks are managed by the 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.

4. Procurement roles / responsibilities and compliance

4.1 Delegated Purchasing Authority (DPA)

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 core Scottish Government staff to enter into a contract on behalf of Scottish Ministers. Procurement Officers and Delegated Purchasing Officers (DPOs) are responsible for conducting the process leading up to, and including, the award of a contract. SPPD is responsible for the scheme of DPA across the core Scottish Government directorates.

SPPD DPA can only be granted to individuals permanently employed by the Scottish Government and is authorised in writing by the Director of SPPD (or their nominated representative). However, where procurement is conducted on behalf of another public body on a Shared Service basis, DPA may be granted by that body itself, rather than SPPD. The decision to grant DPA is based on business need and the training / experience of the member of staff concerned. 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 unless they are seconded to another post within the core Scottish Government to carry out their procurement role in that post. DPA does not automatically transfer to their successor should they leave their current post. If DPA is to be withdrawn by the Director of SPPD, this will be confirmed in writing. DPA should not be confused with financial / budgetary authority which is detailed in the Scottish Government 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 the relevant contracting authority 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, 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 the Scottish

- Government has already made a contractual commitment to buy required for purchases under £5,000 where 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 a DPO in the first instance, or Procurement Officer. If there is any doubt about this, discussions must be held with a DPO.

Purchases made using the electronic Purchasing Card (ePC) must comply with the [ePC procedures](#).

4.2 Commitment of a contract

A contract is a legally binding agreement between at least two parties creating obligations enforceable by law. A procurement contract sets out the details of what is being procured, 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 Scottish Government procurement contracts awarded should normally be subject to Scots Law. For goods and services contracts, this is reflected in the [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 the point of contact within SPPD who has been engaged with for the contract. 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 GPA threshold, and is recommended for use in all other Regulated Procurements. 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) and [PCS Tender](#) (PCS-T). Guidance and documentation on the SPD can be found in the [Procurement Journey](#).

When carrying out Regulated Procurements, you 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 Scottish Government 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 / customer who identifies the need and writes the business case to obtain any 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 Centre Liaison Officer (BCLO) / Business Manager
- be an approver on the Scottish Government's purchasing system EASEbuy

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 and the Client Guide to Construction Projects

The Procurement Journey provides step-by-step guidance and templates for the procurement of goods and services and should be referred to 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.

The [Client Guide](#) provides specific guidance for construction projects including their procurement, and should be referred to throughout the procurement process for construction related contracts.

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. Individuals with the appropriate level of DPA 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](#), consideration should be

given to any existing [contracts and framework agreements](#) which are appropriate for the procurement. 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 £1,000 (ex VAT) an ePC may be used. It is good practice for the cardholder to obtain a quote for purchases to ascertain value for money and to inform decisions. This quote can be made by telephone or in writing from the relevant supplier.

For all purchases with an anticipated value of between £1,000 and £5,000 (both figures excl. VAT), where there is no existing contract, an ePC may be used. It is recommended that cardholders obtain a minimum of three written quotes from different suppliers. These quotes must be obtained before making a decision on the basis of VfM.

A Procurement Officer or DPO will usually 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 must only be used where an individual with the appropriate level of DPA:

- 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 SPPD.

4.8 Non Competitive Action (NCA)

It is Scottish Government 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 Scottish Government policy, and where obligations under procurement legislation have been considered.

[Non Competitive Action \(NCA\)](#) is the Scottish Government'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 the Scottish Government, covering the immediate need
- where there is only one possible supplier
- modifying an existing contract where the modification is not substantial.

A Procurement Officer or DPO must be consulted about any proposal to award a contract without competition or to modify a contract before using the [application for NCA form](#).

- for new requirements with a value of under £10,000 (excluding VAT), NCA approval must be obtained in advance by Deputy Director level or above and forwarded to [SPPD](#)
- all requests to proceed with NCAs for new requirements of £10,000 and above must be approved in advance by [SPPD](#)
- 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 [SPPD](#)

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

Documentation covering the key stages of all procurements must be retained on eRDM, regardless of value. The Procurement Officer or DPO is responsible for ensuring that there is a file on eRDM for each contract and for ensuring that key documents are filed promptly.

In addition to forms contained within systems, such as PCS and PCS-Tender, a number of templates and other relevant documents can be found in the Procurement Journey [Document Library](#) which can be useful to consult when planning procurements.

4.10 Contracts register, transparency, and data protection

The Procurement Reform (Scotland) Act 2014 requires all contracting authorities to keep and maintain a contract register, and to provide an internet-based, publicly viewable version of it. As a minimum, this is required to include all Regulated Procurements. PCS provides functionality to produce a contracts register that meets the requirements of the Act.

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 Scottish Government Terms and Conditions (SGTCs), and the [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](#).

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 the Scottish Government has aligned its [Procurement Strategy](#). Procurement Officers and DPOs should familiarise themselves with the PPSS and the Scottish Government's Procurement Strategy (or the relevant contracting authority's equivalent Procurement Strategy, if not Scottish Government) and consider how procurement exercises will help to deliver against the Strategy.

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 Scottish Government policy that all Regulated Procurements 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, or for works contracts see the [Client Guide](#) which includes a tool to help identify potentially abnormally low tenders.

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. The Scottish Government 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

The Scottish Government 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.

The Scottish Government 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

The Scottish Government is committed to advancing equality through public procurement. For more information on Equality and procurement, including the [Fairer Scotland Duty](#), please see the relevant 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 and 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 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. For advice on how to apply these mechanisms, please see:

- [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

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 that the Scottish Government expects to pay for the requirement. The Scottish Government [consultancy procedures](#) provide further information, including approval levels.

10 Procurement of social care services

Procurement Officers who are involved in buying Social Care services should engage with service providers and people using services to determine whether new procurements are required.

Where a new procurement process is required, the service strategy should be based on ethical commissioning and procurement principles.

Ethical commissioning and procurement approaches should ensure full engagement with those who access social care support, those who support people to access social care support, families and friends, unpaid carers, the workforce and providers.

For more information on the procurement of care and support services, please see the [Procurement Journey](#) or the [Care and Support Services Best Practice Guidance](#).

11 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. The SPFM requires that the contract manager is a permanent member of staff. CSM guidance is provided in the [Procurement Journey](#).

Before taking on any CSM responsibilities, the mandatory training requirements must be completed: [Training Video](#) and [Module 1: Essentials](#). Procurement Officers and DPOs should also familiarise themselves with the [Scottish Government Contract Management Handbook](#), which provides guidance on CSM, and sets out the responsibilities of a contract manager.

The Scottish Government's Contract and Supplier Management team provide support and guidance on many aspects of CSM to anyone who is managing a Scottish Government contract. There is a cost for this CSM support, full details are explained in the [charging guidelines](#).

To request CSM support, or for further information on this subject, please contact CSMT@gov.scot. However, if your procurement support is provided by either the Central Government Procurement Shared Services Team or More Powers Implementation Procurement Teams, please direct queries and requests for advice directly to your point of contact within these teams.

12 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, which may be covered through learning budgets – please contact [Commercial Capability](#) for details.

13 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.

14 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. The Scottish Government 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 [Governance and Risk Team](#), 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.
- **Client Guide to Construction Projects** – guidance to assist public sector clients to procure and manage their construction projects.
- **Construction Policy Notes (CPN)** – construction policy and supplementary information issued by the Scottish Procurement and Property Directorate to public sector organisations and other relevant bodies on construction related matters.
- **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, but is not a Procurement Officer. Appointing a DPO allows business areas the opportunity to manage their appropriate purchasing requirements locally.
- **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 £5,000 (excluding VAT) or less.
- **Electronic Record and Document Management (eRDM)** – the Scottish Government's official electronic record and document management system.
- **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.
- **Procurement Journey** – guidance for public sector buyers who procure goods, services and care and support services.
- **Procurement Officer** – an SPPD member of staff with Delegated Purchasing Authority, who undertakes procurement as the main function of their role.

- **Public Contracts Scotland (PCS)** – the Scottish Government's official national portal for public sector contract opportunities.
- **Regulated Procurement** – in relation to public contracts, procurements with an estimated value of £50,000 and above for goods and services and £2,000,000 and above for works contracts and which are not otherwise exempt from the Procurement Reform (Scotland) Act 2014. Also see the 'Procurement Journey and the Client Guide to Construction Projects' section of this Manual.
- **Scottish Procurement Policy Notes (SPPN)** – procurement policy, guidance and legislation issued by the Scottish Procurement and Property Directorate to public sector organisations and other relevant bodies.
- **Scottish Public Finance Manual (SPFM)** – provides guidance to the Scottish Government and other relevant bodies on the proper handling and reporting of public funds.
- **The Concession Contracts (Scotland) Regulations 2016** – apply when a contracting authority is awarding a concession contract. A concession contract is a works or services contract which allows the contractor to exploit the works or services it provides in lieu of some or all payment from the contracting authority. An example of a works concession contracts might be the construction of a road, for which the supplier is allowed to charge users a toll. An example of a services concession contract might be the provision of café facilities in an office building, from which the contractor is allowed to generate and keep revenue. A contractor may receive some payment from the contracting authority under a concession contract, but must be exposed to a level of operating risk such that it is not guaranteed to recoup its investment.
- **The Utilities Contracts (Scotland) Regulations 2016** – apply when a contracting authority or public undertaking is awarding a contract for the purpose of helping it to carry out one of the activities listed in regulations 8 to 14 of those regulations. These activities include: the provision or operation of networks to supply gas, heat, drinking water or electricity, and the supply of gas, heat, drinking water or electricity to such networks; the provision or operation of networks for transport by railway, automated systems, tramway, trolley bus, bus or cable; the provision of airports, maritime ports, inland ports and other terminal facilities; the provision of postal services; and the exploitation of an area for the purpose of extracting oil, gas, coal or other solid fuels, and exploring for coal or other solid fuels.