



# Procurement Policy Manual

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#### Documentation control

This guidance is owned and maintained by Education Scotland Procurement

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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
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Version 1.4	01/09/2016	Updates to EU threshold
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Version 1.9	05/05/2023	Refresh; contact details update;

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## 1. Introduction and Scope

This Manual provides guidance on the rules that apply to Education Scotland Staff who participate in procurement activity. Adherence to the policies set out in this manual is mandatory for all staff.

This manual should be read in conjunction with the [Scottish Procurement Policy Handbook](#) (applicable to the wider public sector, including the Scottish Government), the [Construction Procurement Handbook](#) (managing or delivering construction/works projects), [the Procurement Journey](#) (a toolkit providing practical guidance on procurement procedures) and other guidance issued by the [Scottish Procurement](#), including [Scottish Procurement Policy Notes](#) (which provide updates on legal and procurement policy developments).

Account must also be taken of the relevant legal framework and [statutory guidance](#) published under the [Procurement Reform \(Scotland\) Act 2014](#).

The rules set out in the [Scottish Procurement Policy Handbook](#) and this 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
- overseen by appropriately trained and authorised staff to minimise the risk of legal challenge to Education Scotland and its employees.

## 2. Procurement definition

Procurement is the process of buying goods, services and works from external suppliers. The procurement process begins when a need to buy something is identified and will generally end after the contract is awarded. Contract management will be conducted throughout the duration of the contract. The role of contract manager is usually performed by the business area for whom the contract has been awarded (with support from Education Scotland's procurement team and where necessary from Central Government Procurement Shared Services). Information on contract management is available in the Procurement Journey <https://www.procurementjourney.scot/procurement-journey>

### 3. Key principles of procurement policy

All procurement activity regardless of value must comply with principles of transparency, equal treatment and non-discrimination, proportionality, and mutual recognition.

- Efficient and effective use of the Organisation's resources
- Non-discriminatory, fair, impartial, and open competition
- Transparency
- Best value for money
- Accountability
- Integrity
- Respect for the Organisation's Regulations and Rules.

#### Legal aspects

Contracts for the procurement of goods, services and works must be in writing and awarded by a Delegated Purchasing Officer (DPO) with relevant Delegated Purchasing Authority (DPA)).

#### Value for Money

Contracts should be awarded on the basis of VfM.

#### Competition

Contracts must be awarded through genuine and effective competition unless there are exceptional reasons to the contrary.

#### Ethical standards

DPOs must adhere to and apply the highest ethical standards in their procurement activity.

#### Buying sustainably

DPOs must consider sustainability in their procurement activity.

#### Separation of duties

The roles of budget holder/customer and DPO should be kept separate.

#### Consultancy services

The procurement of consultancy services must adhere to the Scottish Government '[Use of consultants: guidance.](#)

## 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.

DPA is the authority to enter into a contract for goods, services and works and oversee the process leading up to and including the award of a contract and any subsequent changes to that contract.

#### DPA is:

- required for competition of contracts where there is not an existing contract/framework agreement. It is also required for running mini competitions under any of the Scottish Procurement framework agreements. The Chief Executive will grant to permanent Education Scotland individuals, delegated procurement authority, in writing based on the business need and training/experience of staff concerned. It will specify the value of contracts (excluding VAT) that the individual will be authorised to award.
- intended to allow directorates the opportunity to manage requirements within the local business area; and
- personal to an individual only whilst occupying their current position unless they are seconded to another post within Education Scotland to conduct their procurement role in that post. DPA does not automatically transfer to their successor should they leave their current, post nor does it transfer with them to another post. If DPA is to be withdrawn by the Chief Executive for any reason this will be confirmed in writing.

#### DPA is not:

- to be confused with financial/budgetary authority which is detailed in the Education Scotland Scheme of Delegation.
- required to purchase goods, services, or works from single supplier framework agreements awarded or approved by Scottish Procurement; and
- the authority to approve a contract without following a genuine and effective competition - Non Competitive Action (NCAR) (see [section 8.1](#))

Education Scotland individuals with DPA are known as a Delegated Purchasing Officer (DPO).

Details on existing [contracts and framework](#) agreements awarded or approved by Scottish Procurement are available for Education Scotland staff.

## 4.2 Commitment of a contract

A contract is a legally binding agreement between Education Scotland and one or more suppliers for the supply of specified goods, services or works. The contract sets out the details of what Education Scotland is buying from whom and the rights and obligations of the parties.

It is Education Scotland policy that all contracts except existing single supplier framework agreements are awarded by a DPO with the appropriate level of authority.

All Education Scotland contracts must be in writing using the [text from the Contract Award template](#) from the Procurement Journey although legally contracts can be made by word of mouth, or implied by the action of the parties. Therefore, in discussions with suppliers it is essential that staff take care to ensure that a contract is unintentionally created. To note - an ES formatted contract award letter can be downloaded from the [ES Procurement intranet page](#).

All purchases made using the Electronic Purchasing Card (EPC) must comply with the [EPC procedures](#) which are available on the Finance intranet page.

All contracts awarded by Education Scotland should normally be subject to Scots Law. This is provided in the [Education Scotland Terms and Conditions](#) which have been designed for straightforward or routine purchases of goods or services. Any proposed change, amendment, or alternative form of conditions by the supplier should in the first instance be referred to Procurement for approval and, in the case of high risk or high value contracts, Scottish Government Legal Directorate advice should be sought before agreeing to non-standard contract conditions.

## 4.3 Separation of duties

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

- the budget holder/project manager – known as the Contract Manager who perceives the need and makes out the business case to obtain any necessary approval to spend; and
- the DPO who is responsible for ensuring that the procurement process fully complies with procurement policy.

**A DPO should not:**

- be responsible for any financial approvals connected with contracts that they have signed or approved.
- act as Budget officer/Programme Manager; or
- be an approver on EASEbuy for any contract that they have signed to ensure that there is appropriate separation of duties.

These roles must be separated to protect the staff concerned from accusations of impropriety.

In the case of works contracts, roles and responsibilities are set out in the [Scottish Public Finance Manual](#) (SPFM).

#### **4.4 Contract documentation**

It is Education Scotland policy that documentation covering the key stages of the procurement of goods, services and works, over £2,500 is retained in the relevant contract file on eRDM. The DPO is responsible for ensuring that there is a file on eRDM for each contract and for ensuring that key documents are filed timeously.

For DPO's following the procedures for contracting to the value of up to £2,500 you must retain all quotes you have received for this work for **two years 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.

#### **4.5 Contracts register**

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 to include all regulated procurement which commence on or after 18 April 2016.

The DPO who has awarded the contract must notify ES procurement who will arrange for the contract register to be updated.



## 5. Legal Framework

Public sector procurement in Scotland takes place within a framework of rules including:

- [Public Contracts \(Scotland\) Regulations 2012](#) (as amended)
- [Utilities Contracts \(Scotland\) Regulations 2012](#)
- [Public Contracts \(Scotland\) Regulations 2015](#) (for contracts commenced on or after 18 April 2016)
- [Procurement \(Scotland\) Regulations 2016](#) (for contracts commenced on or after 18 April 2016)
- [Concession Contracts \(Scotland\) Regulations 2016](#) (for contracts commenced on or after 18 April 2016)
- [Utilities Contracts \(Scotland\) Regulations 2016](#) (for contracts commenced on or after 18 April 2016)
- Case law

**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 the Education Scotland.

Any challenges must be raised with [Procurement](#) and any correspondence from legal advisors challenging the procurement process or contract award decision must be forwarded to [Procurement](#).

## 6. Value for Money (VfM)

VfM is defined as the optimum combination of whole life costs and quality (or fitness for purpose) to meet the customer's requirements. Whole life cost considers all aspects of cost over time of the contract, and can include capital, maintenance, management, ongoing operating costs, and end-of-life disposal.

The Scottish Model of Procurement promotes VfM as being an appropriate balance between cost or price, quality, and sustainability. Education Scotland's Procurement Strategy is a framework in which ES will work to ensure that its procurement activities deliver value for money, how it plans to meet its procurement obligations and how these targets are subsequently met. In delivering VfM, cost or price, quality and sustainability are all factors which should be considered when establishing contract award criteria.

It is Education Scotland policy that contracts must be awarded based on VfM.

## 7. Buying Sustainably

Education Scotland is committed to buying goods, services and works in a sustainable manner.

This is done in a way that:

- achieves value for money on a whole life cost basis
- delivers benefits not only for the organisation but for society, the economy and the environment.

Education Scotland will derive the greatest benefits through ensuring that sustainability is embedded and proportionately applied to all its procurement decisions and activities. At the heart of this process will be a [sustainability test](#).

[The Procurement Reform \(Scotland\) Act 2014](#) builds on the work achieved so far in the reform of public procurement in Scotland. It establishes laws about sustainable public procurement to maximise the social, environmental and economic benefits through effective and efficient procurement activity.

The [sustainable procurement duty](#) encompasses these elements.

Smart use of procurement can play a key role in promoting jobs and growth, encouraging innovation, boosting training and apprenticeship opportunities and helping small and medium enterprises (SME's) third sector organisations and supported businesses to compete effectively for contracts.

## 8. Competition, Non-competitive action

It is Education Scotland policy that goods, services and works must be awarded through genuine and effective competition unless there are convincing reasons to the contrary (see [section 8.1](#)). DPOs are responsible for identifying the most appropriate procurement process that is likely to offer the best VfM. Procurement processes for each level of competition are outlined within the [Procurement Journey](#) and must be used for all new contract procurements.

**Before commencing a new competition**, the [contracts and framework](#) agreements awarded by Scottish Procurement and Property Directorate must be considered. New competitions should normally only be launched where the requirement cannot be met through an existing contract.

It is Education Scotland policy that DPOs must use the [Public Contracts Scotland](#) (PCS), national advertising portal when advertising all goods, services and works contracts for work valued at over £2,500.

**To note:**

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

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.

**Processes for use where a new competition is required by estimated value of requirement:**

<b>Estimated Value (excluding VAT)</b>	<b>Process to be followed:</b>
<£2500	<p><b>Low Value Procurement</b></p> <p>Minimum of one written (email) quote.</p>
£2,501 - £50,000	<p><b>Medium Value Procurement</b></p> <p>DPO secures minimum of three quotes via the Quick Quote facility on Public Contracts Scotland (PCS).</p> <ul style="list-style-type: none"> <li>Staff should email their request to the Procurement Team to progress <a href="mailto:edsprocurement@educationscotland.gov.scot">edsprocurement@educationscotland.gov.scot</a></li> </ul> <p>Quick Quote must only be used where the DPO:</p> <ul style="list-style-type: none"> <li>ensures that there is no <a href="#">existing contract/framework</a> agreement which could be accessed;</li> <li>satisfies themselves that using Quick Quote meets their obligations for adequate publicity, and</li> <li>ensures that the procurement/mini competition is for low value/risk goods, services or works.</li> </ul>
£50,001 - £115,632	<p><b>High Value Regulated Procurement</b></p> <p>All contracts will require a formal competitive tender to be advertised on PCS.</p> <p>The Procurement Team will lead this process. Staff should email their request to <a href="mailto:edsprocurement@educationscotland.gov.scot">edsprocurement@educationscotland.gov.scot</a></p>
<b>Estimated Value (including VAT)</b>	
£136,760 ≥  (£115,633 ≥ excluding VAT)	<p><b>WTO GPA High Value Regulated Procurement</b></p> <p>All contracts with an anticipated value of <b>£136,760 including VAT</b> (£115,633 and above excluding VAT) are subject to World Trade Organisation Government Procurement Agreement and should be advertised in the UK e-notification system called Find a Tender Service (FTS) via PCS.</p> <ul style="list-style-type: none"> <li>The Procurement Team will lead this process. Staff should email their request to <a href="mailto:edsprocurement@educationscotland.gov.scot">edsprocurement@educationscotland.gov.scot</a></li> </ul>

All purchases made using the Electronic Purchasing Card (EPC) must comply with the [EPC procedures](#)

### 8.1 Non-Competitive Action (NCA)

It is Education Scotland policy that goods, services, and works must be bought by genuine and effective competition. NCA is only granted in **exceptional** circumstances. It is strictly limited to situations where competition is not deemed appropriate (further information is available on the intranet).

A DPO must be consulted about any proposal to award a contract without competition before using the NCAR form.

**The Procurement Lead should be sighted on all requests for NCA prior to approval being requested from the relevant DPO for NCAs.**

### 8.2 Consultancy services

It is Education Scotland policy that robust procedures must be followed for the engagement of consultancy services to ensure that these resources are used sparingly, appropriately, and effectively. The [Scottish Government Consultancy Procedures](#) must be adhered to. Before any procurement process takes place, a business case must be prepared and approved based on the amount Education Scotland expects to pay for the requirement:

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.

## 9. Contract management

An Education Scotland contract manager should always be appointed to manage any contract for goods, services or works. Contract management guidance is provided in routes 1,2 and 3 of the [Procurement Journey](#). Additional support can be downloaded from the [procurement intranet page](#).

## **10. Ethical standards**

It is Education Scotland policy that staff must preserve the highest standards of honesty, integrity, impartiality and objectivity in all dealings with suppliers and potential suppliers as detailed in the [Scottish Procurement Policy Handbook](#).

DPOs and all other staff involved in procurement, (including line managers), must read and familiarise themselves with this guidance and its associated documents.

## **11. Fraud response procedures: external fraud**

The Education Scotland policy on the detection, reporting and handling of fraud is available in the SPFM and will be in accordance with the [Fraud Response Procedures](#) which includes reporting it to the Fraud Response Co-ordinator without delay. All cases of external fraud should also be reported to the Co-ordinator.

## ANNEX A

### Related areas of interest

[The Scottish Procurement Policy Handbook](#) also provides policy on:

- [Working with suppliers](#)
- [Health and Safety](#)
- [Innovation](#)
- [Management Information](#)
- [Gateway Reviews](#)

Further information on [Scottish Procurement](#) is available.

## ANNEX B

### Glossary

- **Competition**  
contracts must be awarded through genuine and effective competition unless there are convincing reasons to the contrary.
- **Contract**  
is a legally binding agreement between Education Scotland and one or more suppliers for the supply of specified goods, services or works. The contract sets out the details of what Education Scotland is buying and being delivered with and the rights and obligations of both of the parties.
- **Contract register**  
register of all Education Scotland contracts. Each DPO is responsible for submitting it to Education Scotland Procurement on the award of each contract.
- **Delegated Purchasing Authority (DPA)**  
is the authority to enter into a contract for goods, services and works and oversee the process leading up to and including the award of a contract and any subsequent changes.
- **Delegated Purchasing Officer (DPO)**  
a permanent Education Scotland individual with Delegated Purchasing Authority.
- **Framework agreement**  
is an agreement between the Education Scotland and one or more suppliers for the supply of specified goods, services or works over a set period of time. The framework agreement has agreed terms and conditions and a pricing structure defined. The main difference between 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.
- **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 Regulations 2015.
- **Electronic Purchasing Card (EPC)**  
is a corporate charge card used for low value, ad-hoc purchases that are not covered by existing contracts or framework agreements for transactions £2,500 (excluding VAT) or less.
- **Non-Competitive Action (NCA)**  
is an approval process which permits a contract without competition to be awarded.

- **Procurement**  
is the process of buying goods, services or works from external suppliers.
- **Procurement Journey**  
a toolkit providing practical guidance on procurement procedures.
- **Public Contracts Scotland (PCS)**  
the national advertising portal used to advertise all Education Scotland goods, services or works contract opportunities.
- **Scottish Procurement Policy Notes (SPPN)**  
guidance issued by Scottish Procurement providing updates on legal and procurement policy developments.
- **Scottish Public Finance Manual (SPFM)**  
provides guidance to Education Scotland and other relevant bodies on the proper handling and reporting of public funds.
- **Sustainability**  
a process whereby Education Scotland meet their needs for goods, services, works in a way that achieves VfM on a whole life basis and generates benefits not only to Education Scotland but also to society, the economy, and the environment.
- **Value for Money (VfM)**  
the optimum combination of whole life costs and quality to meet the customer's requirement.