

# Procurement Policy Manual

## Education Scotland Procurement Policy Manual

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### Documentation control

This guidance is owned and maintained by Central Government Procurement Shared Services.

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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
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### Contact

Any enquiries in relation to any matter or procurement should be addressed to [edsprocurement@gov.scot](mailto:edsprocurement@gov.scot)

Gillian Hamilton, Strategic Director – 0131 244 3129

Gillian Howells, Head of Finance– 0131 244 4319

Sandra Wilson, Procurement, Grants and Travel Manager – 0131 244 5748

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## 1. Introduction and Scope

This Manual provides guidance on the rules that apply to Education Scotland Staff who are involved 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 Manual](#) (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).

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);
- 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 the Education Scotland and its employees.

## 2. 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 carried out 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 section 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

### EU procurement obligations and principals

All procurement activity regardless of value must comply with European Union (EU) principles of:

- **transparency** - contract procedures must be transparent and contract opportunities should generally be publicised;
- **equal treatment and non-discrimination** - potential suppliers must be treated equally;
- **proportionality** - procurement procedures and decisions must be proportionate; and
- **mutual recognition** - giving equal validity to qualifications and standards from other Member States, where appropriate.

### 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 Consultancy Procedures.

## **4. Procurement roles/responsibilities and Compliance**

(Policy Handbook Reference:

<http://www.scotland.gov.uk/Publications/2008/12/23151017/4>)

### **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 contract changes.

DPA is:

- required for competition of contracts where there is not an existing contract/framework agreement. It is also required for running mini competitions against an authorised Scottish Procurement framework agreement granted to permanent Education Scotland individuals, by the Chief Executive and will be 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 carry out 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 Separation of duties**

(Policy Handbook Reference: <http://www.scotland.gov.uk/Publications/2008/12/23151017/4>)

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.

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

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

### 4.3 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 the Education Scotland contracts must be in writing using the [template document](#) 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 not unintentionally created.

All purchases made using the Electronic Purchasing Card (EPC) must comply with the EPC procedures (available on the intranet).

All contracts awarded by Education Scotland should normally be subject to Scots Law. This is provided in the [Scottish Government Terms and Conditions](#) (SGTCs) 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.

### 4.4 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 a **minimum of one year after the contract end date**. You should hold the quotes in a centralised area 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 DPO who has awarded the contract must notify ES procurement who will arrange for the contract register to be updated.

## 5. Legal Framework

(Policy Handbook Reference <http://www.gov.scot/Topics/Government/Procurement/policy/SPPHandbook>)

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

- Treaty on the functioning of the European Union (EU);
- EU Procurement Directives;
- The Public Contracts (Scotland) Regulations 2015 and
- European Court of Justice and national 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)**

(Policy Handbook Reference <http://www.scotland.gov.uk/Publications/2008/12/23151017/6>)

It is Education Scotland policy that contracts must be awarded on the basis of VfM.

VfM is defined as the optimum combination of whole life costs and quality to meet the customer's requirements. Whole life cost takes into account all aspects of cost over time of the contract, and can include capital, maintenance, management, operating and disposal costs.

## **7. Buying sustainably**

(Policy Handbook reference: <http://www.scotland.gov.uk/Publications/2008/12/23151017/11>)

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

This is done in a way that:

- achieves VfM on a whole life cost basis; and
- 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](#). To find out more on this and further advice on sustainable procurement access the [Scottish Sustainable Procurement Action Plan](#).

## **8. Competition**

(Policy Handbook Reference <http://www.scotland.gov.uk/Publications/2008/12/23151017/7>)

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 form of competition are outlined within the [Procurement Journey](#) and must be used for all procurements.



Before commencing a new competition, the availability of existing [contracts and framework](#) agreements awarded or approved by Central Government Procurement Shared Services 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.

*Table 1 – Process required by estimated value of requirement*

<b>Estimated Value (ex. VAT)</b>	<b>Process to be followed:</b>
<£2500	Minimum of one written (email) quote.
£2,501 - £50,000	<p><b>Quick Quote</b></p> <p>DPO secures minimum of three quotes via Quick Quote.</p> <ul style="list-style-type: none"> <li>• Staff should email their request to the Procurement Department to progress <a href="mailto:edsprocurement@educationscotland.gov.scot">edsprocurement@educationscotland.gov.scot</a></li> </ul> <p>QuickQuote 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 QuickQuote 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 - £OJEU	<p><b>Public Contracts Scotland (PCS)</b></p> <p>All contracts will require a formal competitive tender to be advertised on PCS.</p> <p>The Procurement Department will oversee this process. Staff should email their request to <a href="mailto:edsprocurement@educationscotland.gov.scot">edsprocurement@educationscotland.gov.scot</a></p>
£OJEU (supplies & services)	<p><b>EU Level Procurement</b></p> <p>All contracts with an anticipated value of £122,976 and above (ex VAT) are subject to EU regulations and should be advertised in the OJEU via PCS.</p> <ul style="list-style-type: none"> <li>• The Procurement Department will oversee 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.

**Approval for all NCAR procurements must be reviewed by Procurement 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. Expenditure must be approved by the Cabinet Secretary for Finance and Constitution.

## 9. Contract management

A Education Scotland contract manager should always be appointed to manage any contract for goods, services or works. Contract management guidance is provided in the [Procurement Journey](#).

## 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](#).

Detailed guidance on most ethical issues which relate to purchasing is contained in the Education Scotland Staff Handbook (available on the intranet). 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.
- **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.