

SDS Procurement Policy

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Review no.1	Full policy refresh	January 2021	0.2
Review no.2	Full Policy refresh	September 2023	0.3
Review no.3			

Name of policy being superseded (if applicable)	Procurement Policy Manual Responsible & Sustainable Procurement Policy
Related policies	SDS Contract Management Policy Prevention of Modern Slavery in Procurement Policy Delegated Authority Policy
Related SOPs	
Related Guidance	
Equality Impact Assessment completed	No
Intended Audience	All SDS personnel and contractors
For Publication	Internal and External
Team responsible for policy	Central Procurement Team
Policy owner contact details (email)	Stacy.McDonald@sds.co.uk
Policy due for review (date)	August 2025

Policies should have a clear purpose and perform at least one of the following functions. Please identify all the functions this policy performs.	If statement applies, please mark with an X below
Outline how we allocate limited resources to deliver services or outcomes	
Outline how SDS adheres to legislation, statutory duty etc.	x
Ensure fair and consistent allocation of benefits	
Protect organisational assets, including data	
Define expectations around the employee/employer relationship	
Other (please specify)	

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1. Policy summary

The Procurement Policy is the first of three policies which cover the procurement lifecycle. The process of procuring goods, services and works on behalf of a public sector organisation is called public procurement. There are various levels of legislation which apply to public procurement in Scotland. A high proportion of the financial resources available to Skills Development Scotland (SDS) are used to procure goods and services from third parties.

This policy provides information and guidance for all staff in relation to the procurement process to minimise the risk to SDS of regulatory challenge and prosecution through the improper use of public money.

2. Legal Notice

While the United Kingdom has now left the European Union, almost all EU derived law in force in the UK on exit was converted into UK law by the European Union (Withdrawal) Act 2018. Further, EU-derived domestic legislation such as UK statutes or Regulations to implement EU directives were not affected (EU derived law is now known as assimilated law). The Public Procurement etc. (EU Exit) (Scotland) (Amendment) Regulations 2020 amended a number of existing public procurement legislation and regulations to make such assimilated law suitable for the post-Brexit period while maintaining the same fundamental processes and procedures.

On leaving the European Union, the U.K. became a member of the World Trade Organization's Government Procurement Agreement ("**GPA**"), in its own right (rather than via its membership of the EU) and therefore the requirement to afford equal treatment to bidders from countries which are signatories to the World Trade Organisation's (WTO) Government Procurement Agreement (GPA) will remain. The UK also entered into the UK-EU trade and co-operation agreement with the EU (the "**TCA**") which came into force on 31 January 2020. The TCA incorporates the GPA rules between the UK and EU and provides certain further rights, protections and clarifications. The TCA provides (in Articles 287 and 288) that in respect of government contracts which are not covered by the GPA, the procuring party in the UK must still treat EU suppliers established in the U.K. through the constitution, acquisition or maintenance of a legal person, no less favourably than established suppliers from the UK. This is subject to certain exceptions such as national security.

The Scottish Government has legislated for the technical changes that will be incurred, such as changes to thresholds, but none of these technical changes will fundamentally change the procedures and processes of advertising and awarding public contracts. The basic requirements to advertise contracts, observe minimum timescales, and follow rules on technical specifications and award criteria, for example, will remain in place.

The Legal & Procurement Department keep watching brief on all new legislation, policy and guidance regarding Brexit as well as any other matters that may have an impact on procurement.

3. Policy purpose and objectives

The purpose of this Procurement Policy is to set out the key principles of, and approach to procurement across SDS. Procurement is an integral part of resource, finance and budgetary management. It is essential that internal controls, governance and processes are in place to minimise both financial and reputational damage to SDS when spending public money.

Public sector procurement in Scotland takes place within the framework of, European, UK and Scottish legislation. These are based on the key 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.

This policy provides all colleagues procuring goods, services and works on behalf of SDS a consistent and compliant approach to take. It outlines the roles and responsibilities of the budget holder and Buying Department representative as well as the support available from the Central Procurement Team.

4. Strategic context

As a non-departmental public body in Scotland, SDS's procurement processes must fully comply with;

- Scottish Procurement Legislation
- The Trade and Co-operation Agreement between the UK and EU, and;
- the World Trade Organisation Government Procurement Agreement.

The rules for Public Procurement are bound within:

- [The Procurement \(Scotland\) Regulations 2016](#)
- [The Procurement Reform \(Scotland\) Act 2014](#)
- [The Public Contracts \(Scotland\) Regulations 2015](#)
- [The Utilities Contracts \(Scotland\) Regulations 2016](#)

Depending on the Goods, Services and Works to be procured and value of the purchase, different elements of the legislation applies.

A summary of Procurement thresholds are detailed in the following link:

[**Procurement threshold values: updated - from 1 January 2022**](#)

The Procurement Reform (Scotland) Act 2014 requires public sector contracting authorities to;

- publish a procurement strategy each financial year and as soon as reasonably practical following conclusion of that year, publish a report reviewing the activity within that year.
- keep and maintain a register of contracts which is publicly available online and holds the details of all regulated contracts placed.
- consider the Sustainable Procurement Duty in procurements with a value of £50,000 excl. VAT ("Regulated Procurements")
- publicise the award of contracts with a value of £50,000 excl. VAT.

5. Definitions

The following abbreviations are used within this policy, and related procurement activity.

ITT: Invitation to Tender (Over £50K) Ex VAT.- A request made to potential suppliers to submit bids on goods, works and services to be purchased. Depending on the value, an ITT will be advertised via Public Contract Scotland (PCS) or via OJEU publication (Official Journal of the European Union).

ITQ: Invitation to Quote (£5K-£50K) Ext VAT.- A request made to potential suppliers to submit bids on goods, works and services to be purchased. An ITQ should be issued to a minimum of three capable suppliers.

MEAT: Most Economically Advantageous Tender- Contracts are awarded by evaluating the cost, quality, and where applicable, taking into account sustainability considerations

STA: A Single Tender Action - An internal request for approval to approach a single supplier to contract for a particular requirement with a total value of £5,000 excl. VAT and greater or more. A full list of definitions and a glossary of terms are available [here](#).

6. Scope

Public procurement involves spending public funds and therefore procurement activity should be open, transparent and fair. This policy should be adhered to for **all** SDS purchases. There are three procurement process thresholds within SDS:

1. Requirements below £5,000 (excluding VAT) are Low Value Procurements.
2. Requirements above £5,000 (excluding VAT) and below £50,000 (excluding VAT) are Medium Value Procurements.
3. Requirements above £50,000 (excluding VAT) are considered High Value Procurements within SDS and are "Regulated Procurements" under Scottish Procurement legislation.

Please see [Annex 1](#) for an overview of expected activity within each threshold of activity level.

This policy applies to all SDS staff, as well as any suppliers who may be involved in the procurement of goods, services and works from third parties to SDS.

This policy will be reviewed on a regular basis as legislation and statutory guidance changes.

7. Policy detail

A high proportion of SDS's available financial resources are used to procure and commission goods and services from third parties. The SDS Procurement team provides colleagues with professional advice and guidance in relation to the compliant procurement of goods, services and works on behalf of SDS.

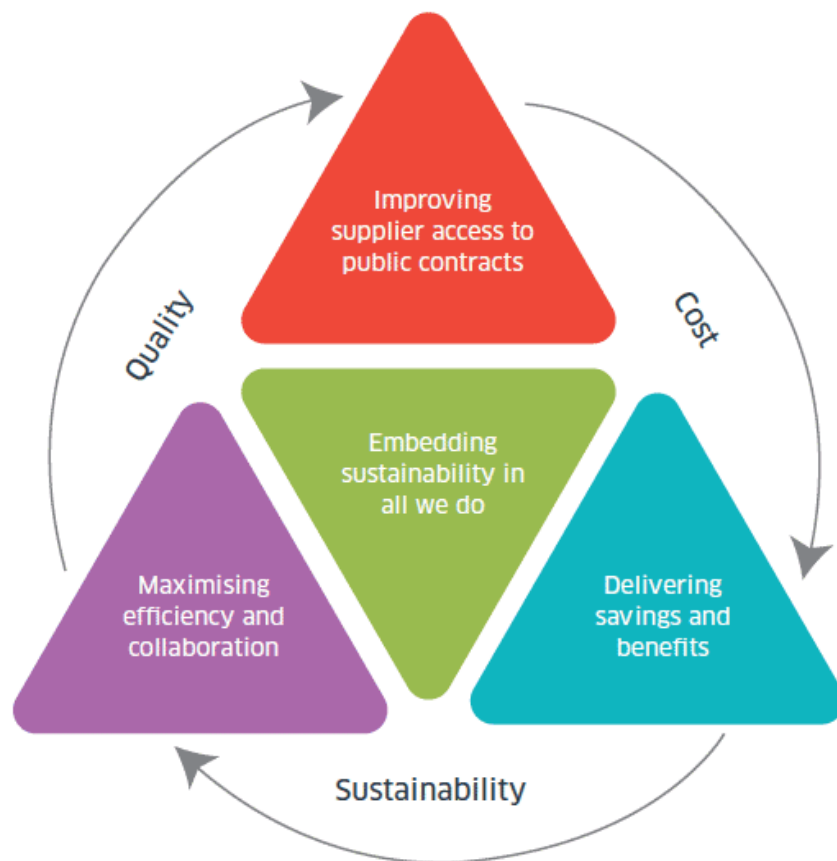
7.1 Value for Money

The Scottish Government's Scottish Model of Procurement seeks to achieve the best balance of cost, quality and sustainability for the taxpayers' money. These three key considerations should be considered when SDS buys a product or service.

SDS award contracts on the basis of most economically advantageous tender (MEAT), evaluating the cost, quality, and where applicable, taking into account sustainability considerations. Quality can include a number of factors including technical merit and functional characteristics.

To assess MEAT, a Price: Quality ratio will be applied which balances the relative importance of price and quality (including sustainability, where appropriate) in the opportunity. The relative importance of the criteria on which the contract will be awarded will be listed in either the “Invitation to Quote (ITQ)” or “Invitation to Tender (ITT)” documentation.

Scottish Model of Procurement



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 SDS can align to and deliver against.

7.2 Competition

Contracting opportunities should be able to demonstrate that a level of competition has taken place for the requirement, unless a robust and justifiable reason exist as to why this would not be possible. This policy should be adhered to for **all** SDS procurements whether for Goods, Services or Works.

There are three procurement process thresholds within SDS:

1. Requirements below £5,000 (exclusive of VAT) are Low Value Procurements.
2. Requirements above £5,000 (exclusive of VAT) and below £50,000 (excl VAT) are Medium Value Procurements.
3. Requirements above £50,000 (exclusive of VAT) are considered High Value Procurements within SDS and are “Regulated Procurements” under Scottish Procurement legislation.

Information in relation to the procurement thresholds and processes can be found on here [Procurement | Skills Development Scotland](#) Please also see Annex 1 for an overview of expected activity within each threshold of activity level.

It should be noted that the [SDS Delegated Authority Policy](#) lists thresholds for appropriate signatory levels based on the value inclusive of VAT and that it is the buyer’s responsibility to ensure that the correct level of signatory is applied.

All procurements with a value of £5,000 (excl VAT) and above must be directed through the Central Procurement Team. The Central Procurement Team will provide advice and guidance as to the routes to market available for the requirement, which includes options such as utilising an established framework agreement or conducting a competition via the Public Contracts Scotland advertising portal. The Central Procurement Team are responsible for managing the procurement process.

7.3 Procurement Process

Scottish Procurement’s [Procurement Journey](#) is a toolkit intended to support all levels of procurement activity and help manage the expectations of stakeholders, customers and suppliers alike. It facilitates best practice and consistency across the Scottish Public Sector and incorporates relevant procurement legislation and Statutory Guidance.

As a public purchasing body SDS adheres to the Procurement Journey and it can be used to support all phases of the procurement process.

7.4 General Procurement Cards

General Procurement Cards enable SDS Employees to make purchases against a card which has been issued for their use. The cards have restrictions relating to the types of purchase and monetary limits; these vary between cardholders.

Procurement Cards are issued to specific employees for the purchase of low value items. Budget Holder’s will agree restrictions on the cards with the Finance Department for each individual cardholder.

Cardholders are required to sign an agreement for the use of the cards and must never use them for personal expenditure.

Cardholders should not use cards to circumvent procurement processes and should follow procurement rules and procedures at all times.

7.5 Separation of Duties

The term “separation of duties” means that roles within the stages of the process are divided between two or more people so that no one is responsible for the entire purchasing process to minimise the risk of fraud to the organisation. In any procurement process the key roles of budget holder and buying department representative **should not** be performed by the same individual.

The Four key roles are as follows;

- (i) The budget holder – this individual should have the authority to commission goods, services or works and to provide financial authority for the expenditure.
- (ii) The Buying Department – Should ensure that the Procurement Policy has been followed and have authority to commit the organisation to a contract for the purchase of goods, services or works.
- (iii) The Procurement Department – Should ensure that the relevant authorities are sought for the procurement of goods, works & services and that any procurement undertaken is in line with relevant Procurement policies and legislation.
- (iv) The Finance Department – Should ensure timely payment of invoices within 30 days.

Budget Holders are required to ensure that procedures exist to allow only those staff with appropriate purchasing authority to commit SDS to a new contractual relationship.

No one individual can have the authority to control two consecutive stages in the separation of duties.

7.5 Purchase Order Approvals

SDS's finance and purchasing system has three levels of approval for standard purchase requisitions;

- Requisitions are created by the Buying Department
- Requisitions require to be approved as compliant by the Procurement Department
- Requisitions are then approved by the Finance department and turned into a purchase order number

7.6 Specification Development

The buying department is responsible for the specification (also known as the “brief” or “Statement of Requirements”) of the goods or services they wish to procure. Specifications should be as generic as possible and not include brand names, as this increases the ability of suppliers to compete and aids the delivery of value for money. Specifications should be framed so that, as far as possible, the resulting offers can be judged against objective criteria.

The buying department must be able to clearly articulate their requirements for use in the procurement process. Specifications can take different forms and appropriate advice, shall be provided by the Procurement Team. The specification will form part of the invitation to quote or invitation to tender and will be published with the pricing schedule and any other documentation including terms and conditions to apply to the resultant contract.

7.7 Sustainability

The Procurement Reform (Scotland) Act 2014 also puts statutory duties on contracting authorities to consider sustainability in procurements, as follows;

- Sustainable procurement duty (Section 9 of The Act); this can include Fair Work
- Community benefits for contracts with an estimated value of £4 million or greater (Section 25 of The Act). The SDS Community Benefits Procedure 2018 states that SDS will consider community benefits in procurements estimated at £1 million or greater.

The Scottish Government has developed a number of tools which can be used in the contract development phase to help public sector organisations identify and address how they can optimise the economic, social and environmental outcomes of their procurement activity;

- **Prioritisation tool** is designed to assist early stage strategic planning, and brings a standard, structured approach to the assessment of spend categories.
- **Sustainability test** is designed to help embed relevant and proportionate sustainability requirements in the development of frameworks and contracts.

It can be used in isolation or by reference to the results of prioritisation assessment, where undertaken.

The tools listed above can be used by contracting authorities to demonstrate that they have met their obligations under the Procurement Reform (Scotland) Act 2014.

7.8 Equalities

- SDS Promotes equality and fairness through its procurement processes and practices by striving to ensure equal opportunities for all, when procuring goods, works or services.
- SDS will strive to procure works, goods and services from suppliers who can demonstrate a commitment to making sure that their employees and their customers are not discriminated against because of age, sex, sexual orientation, race (including colour, nationality, national or ethnic origin) religion and belief, disability, gender reassignment pregnancy/maternity and marital/civil partnership status.
- Additionally SDS are required to ensure that when awarding a contract that specific equalities duties that are covered by the [Public Contracts \(Scotland\) Regulations 2015](#) are met. This means that SDS must;
 - Ensure that when they award a contract or framework agreement on the basis of the most economically advantageous offer, they will have due regard to whether the award criteria should include considerations to enable it to better perform the equality duty
 - When stipulating performance conditions in a contract or framework agreement, must include where required that the conditions include considerations to enable it to better perform the equality duty

7.9 Prompt Payment

- SDS has a commitment to pay 90% of undisputed and valid invoices within 30 days.
- SDS requires all suppliers to ensure that the same payment terms are offered to all sub-contractors they engage in the delivery of all SDS contracts.
- Prompt payment is monitored as part of contract management activity, addressing any shortfalls with the main supplier during the life of the contract to ensure the reliability of the supply chain. The responsibility lies with the main contracted supplier to monitor and support prompt payment to all sub-contractors.

Sub-contractors of the main contracted suppliers to SDS are requested to address complaints regarding late payment of invoices in the first instance to the main supplier and in the second instance to the Head of Procurement at SDS.

7.10 Fair Work

The Scottish Government established the independent Fair Work Convention in 2015 which published the Fair Work Framework in 2016. In 2019 the Scottish Government set out a Fair Work Action Plan which set out the move towards the Fair Work First.

In compliance with the Procurement Reform (Scotland) Act 2014, for all procurements with a value in excess of £50,000 excl VAT, SDS will consider and document whether it is relevant and proportionate to include evaluation criteria relating to Fair Work First. Whilst SDS is a supporter of the real living wage we cannot mandate it within contracts procured.

7.11 Consultancy

In line with guidance from the Scottish Government, SDS has procedures in place in relation to the procurement of consultancy services, and as a non-departmental public body these must be

adhered to. Prior to the procurement of any consultancy services, the Buying Department must contact the Procurement Team.

7.12 Framework Agreements and Collaboration

A framework agreement is an agreement between one or more contracting authorities and one or more suppliers which establishes the terms under which the supplier will enter into one or more contracts with the contracting authority in the period during which the framework agreement applies.

As well as framework agreements put in place by SDS for our own use, SDS also has access to framework agreements put in place by other public sector bodies, for example Scottish Procurement and Crown Commercial Services. Collaboration across public procurement functions provides opportunities for better utilisation of procurement skills and resources, greater purchasing leverage through aggregation of spend, encouraging innovation in markets, maximising benefits and the spread of best practice.

SDS seeks to collaborate with any Enterprise or Skills Partners and the Scottish Centres of Procurement Expertise wherever possible. The following groupings define how and by whom in the national procurement structure, contracts are established for each of the categories.

Category A – National Contracts put in place by Scottish Procurement.

Category B – Sectoral Specific Contract via the sector specific Centres of Expertise

Category C1 – Regional

Category C – Local

The Procurement Team can offer advice and guidance on the use of framework agreements and buying departments should always engage the Procurement Team to ascertain if there is an established framework agreement in place which would fulfil their requirement. The buying departments should always consult with the Procurement Team prior to utilising an established framework agreement.

7.13 Ethics and declaration of interests

The contract manager acts on behalf of SDS as the contracting authority in representing SDS's interests. Where an employee or a close relative of an employee acts as a supplier or, when the aforementioned hold significant interest in an organisation which trades or has potential for trading with Skills Development Scotland, then the employee is required to declare all such interests in line with the [Code of Conduct](#).

In undertaking or participating in any aspect of purchasing/ procurement, employees are required to declare any personal interest, which may affect or be seen by others to affect that member of staff's impartiality in a matter relevant to their duties. In the first instance this declaration must be made to your line manager, the procurement lead and, in line with the Code of Conduct, and CEO Office via the completion of a Declaration of Interest Form. This may be referred to the Head of Procurement and or CEO Office representatives for further guidance. If any potential conflicts of interest occur during the contract they require to be highlighted to procurement as non-disclosure agreements (NDAs) would have been conducted as part of the procurement process. The SDS Confidentiality and Non-Disclosure Agreement can be found within the Evaluation Guidance documentation found [here](#).

7.14 Supplier Inclusion: SME's/Third Sector/Supported

The Scottish Government's Economic Recovery Programme specifies that the Government is committed to ensuring that SME's have fair access to public sector contracts in Scotland.

SDS utilise Public Contracts Scotland, the national portal, to conduct contract opportunities in excess of £5,000 and where an established framework agreement is not appropriate or available as a procurement route. This allows free and readily available access to contracting opportunities.

Where possible and appropriate, SDS will utilise the Scottish Government's Supported Business' Framework Agreement, or reserve contracts in compliance with legislation, for participation only by those organisations which meet the definition of a "supported business".

7.15 Single Tender Action

A Single Tender Action (STA) is an internal request for approval to approach a single supplier to contract for a particular requirement with a total value of £5,000 excl VAT and greater. These will only be approved in exceptional circumstances where the buying department can demonstrate that there is a justifiable reason to do so, for example there is only one supplier in the marketplace or in a case of extreme urgency. Please note that any STA requirements greater than £100k will require to be approved by Scottish Government in line with SDS/Scottish Government NDPB Framework document.

7.16 Data Protection

Often contracting opportunities for SDS will include a requirement for the supplier to access personal data of various different groups. SDS must ensure that any such requirements provide the necessary data protection provisions within the contract, in line with the General Data Protection Regulations (GDPR) and the Data Protection Act 2018.

With regards to GDPR, departments should work with the Information Governance & Organisational Resilience team to ensure that a Data Protection Information Assessment (DPIA) is completed. The department will then work with Procurement to ensure the outcomes of the DPIA are considered within the strategy, requirements and the contract. The contract manager is then responsible for ensuring that GDPR requirements are followed in line with the contract and any issues or incidents are raised with the Information Governance & Organisational Resilience team.

The department should work with Procurement to determine the level of Cyber Security risk at procurement strategy stage. This may also include involvement with the EIS Assurance Team via the departments EIS Business Relationship Manager. This level of risk then informs the requirements to be incorporated into the contract. It is the contract manager's and data asset owner's responsibility to monitor conformance with requirements, including accreditations being up to date. Any issues should be raised with the EIS Assurance Team.

8. Further Guidance

The Scottish Government regularly publish Scottish Procurement Policy Notes (SPPNs) relating to particular topics or changes in the public sector procurement landscape.

SPPNs provide advice to public sector organisations and other relevant bodies on procurement policy. SPPNs can be found [here](#).

Annex 1: Procurement Process Thresholds within SDS

The below gives an overview of expected activity within each threshold of activity level. Please note that the values are cumulative, and requirements should not be broken down to smaller procurement activity to circumvent this policy.

Value (excl. VAT) Activity

£0 - £5,000	This activity can be managed by a buying department, unless advice and guidance is requested from Procurement. A minimum of one quote should be sought and the use of the Government Procurement Card (GPC) can also be applied. The Government Procurement Card is an automated payment mechanism with built in controls. More information in relation to the Government Procurement Card can be found on the SDS intranet pages
£5,000 - £49,999	The Central Procurement Team will conduct these procurements on behalf of the buying department. Suppliers will be invited to quote using the Public Contracts Scotland Quick Quote facility.
£50,000 and above	The Central Procurement Team will conduct these procurements on behalf of the buying department. Requirements of this value are "Regulated" under legislation and therefore SDS have to meet particular obligations related to these purchases. For requirements not covered by an existing contract or framework agreement, an open competition (tender) will be advertised on the Public Contracts Scotland for interested parties to access the invitation to tender documentation and bid if they see fit. The Central Procurement Team will manage the process to ensure compliance. By utilising the Public Contracts Scotland Portal for the procurement process SDS can ensure that there is a secure electronic audit trail in place for the process.

Please note that those values which exceed the Procurement Thresholds will be subject to the rules in place via The Public Contracts (Scotland) Regulations 2015. Those thresholds are updated every two years and can be found here: [Procurement threshold values: updated - from 1 January 2022 - gov.scot \(www.gov.scot\)](#)

Please make contact with a member of the Procurement Team to obtain the correct and most up to date templates for use in the procurement process.