SDS Contract Management Policy

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| **Descriptor** | **Changes made** | **Date** | **Version**  |
| Policy first implemented | - | Feb 2015 | 0.1 |
| Review no.1 | Updated in line with internal audit recommendations | January 2021 | 0.2 |
| Review no.2 | Updated in line with policy review date  | September 2023 | 0.3 |
| Review no.3 |  |  |  |

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| --- | --- |
| Name of policy being superseded (if applicable) | N/A |
| Related policies | [SDS Procurement Policy](https://skillsdevelopmentscotland.sharepoint.com/%3Aw%3A/s/IShare/CPPR/PP/Pol/Ebo9V6dMdkhJsKbYPQku3QwB937VTILbuhxZIKBuw5Jhpw?e=UrWIzR)[SDS Delegated Authority Policy](https://skillsdevelopmentscotland.sharepoint.com/sites/IShare/Connectcontent/Resource%20Library/Forms/NotArchived.aspx?id=%2Fsites%2FIShare%2FConnectcontent%2FResource%20Library%2FFinance%2FPublications%2FDelegated%20Authority%2FDA%5Ffrom%20040320%2Epdf&parent=%2Fsites%2FIShare%2FConnectcontent%2FResource%20Library%2FFinance%2FPublications%2FDelegated%20Authority&p=true&ga=1)[SDS Code of Conduct Policy](https://skillsdevelopmentscotland.sharepoint.com/sites/IShare/CPPR/PP/Pol/Live/Forms/NotArchived.aspx?id=%2Fsites%2FIShare%2FCPPR%2FPP%2FPol%2FLive%2FHuman%20Resources%2FCode%20of%20Conduct%20Policy%202021%2Epdf&parent=%2Fsites%2FIShare%2FCPPR%2FPP%2FPol%2FLive%2FHuman%20Resources&p=true&wdLOR=c8F570837%2D125A%2D4AFF%2D82AC%2DC0D0649CB6FD&ga=1) |
| Related SOPs | Contract Strategy/Contract Award Recommendation Report/Contract Management Plan |
| Related Guidance | Contract Management Best Practice Guidance Note/Contract Management e-learning |
| Equality Impact Assessment completed | No |
| Intended Audience | SDS Internal/Business areas/Delegated authority levels/Contract Managers |
| For publication  | Internally and Externally  |
| Team responsible for policy | Procurement |
| Policy owner contact details (email) | Stacy.McDonald@sds.co.uk |
| Policy due for review (date) | September 2025 |

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| **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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# Policy summary

The Contract Management Policy is the second of two policies which cover the procurement lifecycle. This policy provides information and guidance to ensure a consistent approach is taken across Skills Development Scotland (SDS) in relation to the management of awarded contacts.

It covers SDS contract management principles and sets out the roles and responsibilities of colleagues to support the monitoring of third party suppliers and to mitigate risk.

# 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.

# Policy purpose and objectives

A consistent approach to contract management will ensure SDS’s awarded contracts via third party suppliers are managed appropriately making best use of resources, mitigating against known risks and demonstrating value for money. Achieving this will deliver organisational benefits to SDS and help achieve legislative compliance.

This policy sets out the process contract managers should adhere to in order to meet the business, operational and policy objectives required from the contract.

# 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 found within:

* any directly applicable EU obligations brought into the law of the United Kingdom by the [European Union (Withdrawal) Act 2018;](https://www.legislation.gov.uk/ukpga/2018/16/contents/enacted)
* [The Procurement (Scotland) Regulations 2016](https://www.legislation.gov.uk/sdsi/2016/9780111030868)
* [The Procurement Reform (Scotland) Act 2014](https://www.legislation.gov.uk/asp/2014/12/contents)
* [The Public Contracts (Scotland) Regulations 2015](https://www.legislation.gov.uk/ssi/2015/446/contents/made)
* [The Utilities Contracts (Scotland) Regulations 2016](https://www.legislation.gov.uk/ssi/2016/49/contents/made)

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

Services provided to SDS by third parties account for more than 60% of SDS’s financial resources.

Through effective and pro-active contract management, SDS influences the behaviours of our supply base to ensure that we contribute to the National Outcomes in the [National Performance Framework](https://nationalperformance.gov.scot/). To ensure consistency of approach in the Scottish public sector, we are asked to adhere to the Scottish Government’s Procurement Journey, as shown in Figure 1. More information on this can be found at Section 7 of this policy.

SDS Procurement require to adhere to SDS Delegated Authority Policy which sets out the financial limits that are assigned to individuals within the organisation regarding their ability to approve contracts. Any changes to a contract that will impact it’s value, scope or duration will require to be signed off in line with SDS Delegated Authority Policy.

**Figure 1: Scottish Government’s Procurement Journey**

# Definitions

**Business Area:** any SDS department with a purchasing requirement who require to liaise with SDS procurement. May also be referred to as client department or customer.

**Contract management:** The planning, monitoring and control of all aspects of the contract and the motivation of all those involved to achieve the contract objectives on time and to specified costs, quality, performance & public sector policies.

**Contract Manager:** An individual identified by the business area who is responsible for the contract and performance management of the third-party provider for all contracts

**Data Protection Impact Assessment (DPIA):** It is an effective way for the business to understand and mitigate the risks of processing personal data for a new activity or project. In some cases, these are an essential requirement under Data Protection law.

A full list of definitions and a glossary of terms are available [here](https://skillsdevelopmentscotland.sharepoint.com/%3Ab%3A/s/IShare/Connectcontent/EeHePwdyljtFrzxkYwQgZHwB7-6kC-ZgzTtn62WSnYObvg?e=2Tb1h2).

# Scope

This policy applies to the Procurement Team and all Contract Managers within SDS who are responsible for the management and performance of awarded contracts.

# Policy detail

A significant proportion of the financial resources available to SDS are used to procure service delivery requirements from third parties. Contract management is the process and methodology which ensures that both parties, SDS and external providers, meet their contract obligations as efficiently and effectively as possible in order to meet the business, operational and policy objectives. It is important that we manage the third parties in a consistent, effective and professional manner whilst adhering to responsible and ethical behaviours.

Following procurement activity and a contract being placed with a third party, the contract and relationship must be managed to ensure that SDS receive the goods and services they require on the terms set out in the contract. All appropriate contracts for goods and/or services must be governed by either a contract specific service level agreement or through supplier performance measurement and reporting mechanism.

The approach to contract management at SDS is based on proportionality and risk management. All contracts which have an overall contract value greater than £50,000 will have a designated contract manager within the business area. Other lower value contracts required to be reviewed to determine their business criticality through effective risk management. If these contracts are deemed to be high risk and business critical, there will be a designated contract manager.

For contracts with an aggregate value of greater than £50,000, a Contract Management Plan will be developed jointly by the Procurement Lead and the business area. This plan will be used to outline the roles and responsibilities, key aspects of the contract and the contract management provisions. It is the responsibility of the contract manager to ensure the Contract Management Plan is updated regularly, throughout the life of the contract, detailing the changes and revisions to the contract.

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 SDS, then the employee is required to declare all such interests in line with the [Code of Conduct Policy](https://skillsdevelopmentscotland.sharepoint.com/%3Ab%3A/s/IShare/CPPR/PP/Pol/EdOh0ZTPg5VJhPnb8QOICa4BHuyw-PWkk90Zu8_LxPhhjQ?e=mhqWZ2).

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 Policy, 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 NDAs can be found within the Evaluation Guidance documentation found [here](https://skillsdevelopmentscotland.sharepoint.com/%3Aw%3A/s/IShare/ProcurementandLegalServices/Procurement/PPD/EeqmdH0aJmlDriBfGWcqX9oBO7xrhk81PHo6-81iSd83Vw?e=GgNMuj).

The Contract Management Plan will identify various elements including (but not limited to):

* Summary of Contract Details
* Key Stakeholders – internal and external
* Communications Plan from the internal customer to key stakeholders
* Contract Objectives
* Contract Benefits
* Mobilisation Plan / Key Contract Dates
* Performance Management and Governance
* Escalation Process
* Risks and Opportunities
* Supplier Health Check
* Certifications
* Fair Work First
* Community Benefits (if applicable)
* Prompt Payment
* Exit Plan
* Agresso Business World Guidance

**Data Protection**

With regards to GDPR, departments should work with the Information Governance, Resilience and Risk (IGRR) team to ensure that a Data Protection Information Assessment (DPIA) is completed (where any personal data is involved). 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 IGRR 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 Cyber Security 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 and Data Asset Owners responsibility to monitor conformance with requirements, including accreditations being up to date, as detailed in the Contract Management Plan. Any issues should be raised with the EIS Cyber Security Team.

**SDS Contract Management Function**

Within contract management, there are a number of inter-related workstreams. Within SDS, responsibility for each of these tasks can vary between departments. Therefore, the contract management plan will look to detail areas of responsibility by contract.

**Key Documents**

The SDS key documents for contract management are summarised in the table below.

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| **Key documents** | **Purpose** |
| Contract Strategy | The SDS Procurement Team, in partnership with the business area. will develop a Contract Strategy for any procurement over £50k. For contract management, the strategy will serve as a reminder of key stakeholders involved during procurement, previous history of the contract, supply market analysis, risk management, sustainability, procurement route and a high level plan for contract implementation and management. |
| Robust Terms and Conditions | A set of terms and conditions will be created as part of the procurement documents to be issued and agreed with the successful supplier. Alongside the specification and tender response, terms and conditions are an agreement as to how the contract will operate. It is therefore important that contract managers have a working knowledge of the T&C’s however, the Procurement and Legal team are able to support should any queries arise. Both long form and short form Terms and Conditions of Purchase can be found under our external facing page [here](https://www.skillsdevelopmentscotland.co.uk/about/policies/procurement/). |
| Contract Award Recommendation Report  | The SDS Procurement Team, in partnership with the business area, will develop a Contract Award Recommendation Report for any procurement over £50k. This document summarises the procurement process and seeks approval for a contract to be awarded. From a contract management standpoint, it summarises the benefits of the proposed contract and any savings the contract is expected to deliver. Contract management is the process for then delivering these benefits. |
| Contract Management Plan | The SDS Procurement Team, in partnership with the business area, will develop a Contract Management Plan. This is a key document in the move from the procurement process to contract implementation and management. The document details contract term, owners and their responsibilities, the level of contract management required, communication plans, contract objectives, mobilisation plan, performance management / governance, escalation, risks and exit plan. SDS template can be found within the [Procurement Contract Management Connect Page](https://connect.sds.co.uk/page/6936).**It is the responsibility of the contract manager to ensure the Contract Management Plan is updated regularly, throughout the life of the contract, detailing the changes and revisions to the contract. Procurement should be given visibility of any revisions made to CMP’s throughout the life of the contract.**  |
| Lessons Learned  | Lessons learned should be driven by the contract manager. These are normally towards the end of the contract term but can also be at the end of a stage of a project e.g. implementation.  |
| SDS Contract Management Plan Tracker | Procurement maintain a tracker which provides details of the frequency of performance reports to the Procurement team for new Contract Management Plans put in place from 1 December 2020. Procurement also receive alerts via Citrix for contract renewal dates. |
| Balanced Scorecard  | To undertake a proportionate approach to contract management we recommend the use of Balanced Scorecards. These should be used when relevant to a contract. |

# Further guidance

[Contract Management BPGN](https://skillsdevelopmentscotland.sharepoint.com/sites/IShare/Connectcontent/Resource%20Library/Forms/NotArchived.aspx?id=%2Fsites%2FIShare%2FConnectcontent%2FResource%20Library%2FProcurement%2FDocuments%20for%20New%20Connect%2FProcurement%20Best%20Practice%20and%20Guidance%2FCM%20Guidance%20Note%202023%2Epdf&parent=%2Fsites%2FIShare%2FConnectcontent%2FResource%20Library%2FProcurement%2FDocuments%20for%20New%20Connect%2FProcurement%20Best%20Practice%20and%20Guidance)

[Contract Management e-learning module on Academy](https://sdsacademy.sds.co.uk/course/view.php?id=471)

[Scottish Government – Procurement Journey Contract and Supplier Management](https://www.procurementjourney.scot/route-3/contract-and-supplier-management)

[SDS Evaluation Guidance – including NDA and Confidentiality Agreement](https://skillsdevelopmentscotland.sharepoint.com/%3Aw%3A/s/IShare/ProcurementandLegalServices/Procurement/PPD/EeqmdH0aJmlDriBfGWcqX9oBO7xrhk81PHo6-81iSd83Vw?e=GgNMuj&wdLOR=c6179E8F4-77AA-447E-A554-FDD9D7F8A1D2)