

**Scottish Procurement Policy Manual  
Version 9.0**

	Effective date	Changes made
Version 1.0	16th May 2006	
Version 2.0	19th March 2010	Complete review to reflect complementary policy documents, primarily the Scottish Procurement Policy Handbook
Version 3.0	6th May 2011	Complete review to clarify scope and update complementary policy documents
Version 4.0	19th July 2011	Update on separation of duties (Section 4.3)
Version 5.0	28 November 2011	Clarification on Delegated Purchasing Authority (Section 4.1)
Version 6.0	12 March 2012	Update on consultancy and staff with Delegated Purchasing Authority
Version 7.0	23 October 2012	Update on Delegated Purchasing Authority (section 4.1)
Version 8.0	23 September 2014	Update on Delegated Purchasing Authority (Section 4.1), Legal framework (Section 5), Value for Money (VfM) (Section 6) and Competition (Section 8)
<b>Version 9.0</b>	<b>18 April 2016</b>	<b>Complete review and update to reflect Regulations changes effective 18 April 2016</b>

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## 1. Introduction and scope

This manual provides guidance on the rules that apply to Scottish Government staff who are involved in procurement activity. Adherence to the policies set out in this manual is mandatory for core Scottish Government staff, and to any agencies and Non Departmental Public Bodies whose procurement is managed by Scottish Procurement on a shared service basis.

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 [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);
- 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 Scottish Government 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 Scottish Procurement). Information on contract management is available in the [Procurement Journey](#).

## 3. Key principles of procurement policy

### EU procurement obligations and principals

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

- transparency;
- equal treatment and non-discrimination;
- proportionality; and
- mutual recognition.

### Competition

Contracts must be awarded through genuine and effective competition unless there are exceptional reasons to the contrary (see [section 8](#)).

## **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) (see [section 4.1](#)).

## **Value for Money**

Contracts should be awarded on the basis of VfM (see [section 6](#)).

## **Competition**

Contracts must be awarded through genuine and effective competition unless there are exceptional reasons to the contrary (see [section 8](#)).

## **Ethical standards**

DPOs must adhere to and apply the highest ethical standards in their procurement activity (see [section 10](#)).

## **Buying sustainably**

DPOs must consider sustainability in their procurement activity (see [section 7](#)).

## **Separation of duties**

The roles of budget holder/customer and DPO should be kept separate (see [section 4.3](#)).

## **Consultancy services**

The procurement of consultancy services must adhere to the [Scottish Government Consultancy Procedures](#) (see [section 9](#)).

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

## **4.1 Delegated Purchasing Authority (DPA)**

Scottish Procurement is responsible for the scheme of Delegated Purchasing Authority (DPA) across the core Scottish Government directorates.

DPA is the authority to enter into a contract for goods, services and works. In doing so, to take responsibility for overseeing 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 an existing contract/framework agreement does not already exist. It is also required for running mini-competitions against an authorised Scottish Procurement framework agreement or for the modification of an existing contract
- granted to permanent Scottish Government individuals, authorised in writing by the Director of Procurement and Commercial (or his nominated representative). This will be based on the business need and training/experience of the 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 their appropriate purchasing requirements within their local business area; and
- personal to an individual only whilst they occupy their current position unless they are seconded to another post within the core Scottish Government to

carry out their procurement role in that post. DPA does not automatically transfer to their successor should they leave their current post nor does it transfer with them to another post. If DPA is to be withdrawn by the Director, Commercial and Procurement for any reason this will be confirmed in writing.

DPA is not:

- to be confused with financial/budgetary authority which is detailed in the Scottish Government Scheme of Delegation (available on the intranet);
- 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 (NCA) (see [section 8](#))

Scottish Government individuals with DPA are known as a Delegated Purchasing Officer (DPO).

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

#### **4.2 Commitment of a contract**

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

It is Scottish Government policy that all contracts except as mentioned above existing single supplier framework agreements are awarded by a DPO with the appropriate level of authority.

All Scottish Government contracts must be in writing using the Invitation to Quote Goods/Services [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 the Scottish Government should normally be subject to Scots Law. This is provided in the [Scottish Government Terms and Conditions](#) (SGTCs). SGTCs have been designed for straightforward or routine purchases of goods or services. Any proposed change, amendment or alternative form of conditions by the DPO or supplier should in the first instance be referred to Scottish 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 Scottish Government policy that there are at least two defined roles in a procurement process:

- the budget holder/customer 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 authority to approve;
- act as Budget Centre Liaison Officer (BCLO)/Business Manager; or
- be an approver on the Scottish Government's purchasing system EASEbuy.

These roles must be separated in order 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 Competition and advertising**

It is Scottish Government 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](#)). 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 Scottish Procurement must be considered. New competitions should normally only be launched where the requirement cannot be met through an existing contract.

All purchases up to the value of £5,000 that are not on an existing contract must have three written quotations from different suppliers before making a decision on the basis of VfM.

In addition to the OJEU publication requirements, the Procurement Reform (Scotland) Act 2014 requires all public bodies who are conducting a regulated procurement to publicise their intention to seek offers (contract notice) and the award of a contract or framework agreement (contract notice) on [Public Contract Scotland \(PCS\)](#). The PCS [info centre](#) contains further information on how public bodies can meet their publication obligation.

This means that all regulated contracts for goods and services with an anticipated value of £50,000 and above (excluding VAT) and for contracts for works with an anticipated value of £2,000,000 and above (excluding VAT) must be advertised on the [Public Contracts Scotland](#) advertising portal (PCS). The value of the contract is the total amount, net of VAT, which the Scottish Government expects to pay over the full duration of the contract (including any options to extend).

All contracts with an anticipated value of less than £50,000 but above £5,000 (excluding VAT) will require a DPO to use QuickQuote (an online competition process within PCS). QuickQuote must only be used where the DPO:

- ensures that there is no [existing contract/framework](#) agreement which could be accessed;
- satisfies themselves that using QuickQuote meets their obligations for adequate publicity, and
- ensures that the procurement/mini-competition is for low value/risk goods, services or works.

All purchases made using the electronic Purchasing Card (ePC) must comply with the ePC procedures (available on the [intranet](#)).

#### **4.5 Contract documentation**

It is Scottish Government policy that documentation covering the key stages of the procurement of goods, services and works is retained on the electronic Record and Document Management system (eRDM). The DPO member of staff is responsible for ensuring that there is a file on eRDM for each contract and for ensuring that key documents are filed timeously.

#### **4.6 Contracts register and transparency**

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.

While the onus is on individual organisations to produce and publish their contracts registers, in order to provide support to the public sector, [Public Contracts Scotland](#) (PCS) will provide functionality on the portal to produce a contracts register that meets the requirements of the Act. Therefore by following Scottish Government policy and using PCS, the contract register requirements will be met.

### **5. Legal framework**

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 2012](#) (as amended);
- The [Utilities Contracts \(Scotland\) Regulations 2012](#);
- The [Public Contracts \(Scotland\) Regulations 2015](#) (for contracts commenced on or after 18 April 2016);
- The [Procurement \(Scotland\) Regulations 2016](#) (for contracts commenced on or after 18 April 2016);
- The [Concession Contracts \(Scotland\) Regulations 2016](#) (for contracts commenced on or after 18 April 2016);
- The [Utilities Contracts \(Scotland\) Regulations 2016](#) (for contracts commenced on or after 18 April 2016); and
- European Court of Justice and national caselaw.

Formal challenges and complaints may be brought against the Scottish Government alleging a breach of these rules. The consequences of a successful challenge may,

depending on the nature of the breach, result in the Scottish Government being fined; the duration of a contract being shortened; award of damages against the Scottish Government; and reputational damage to the Scottish Government.

Any challenges must be raised with Scottish Procurement and any correspondence from legal advisors challenging the procurement process or contract award decision must be forwarded to [Scottish 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. Depending on the nature of the contract, whole life cost may include implementation costs, 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. In addition, a procurement strategy sets a framework in which a contracting authority 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 taken into account when establishing contract award criteria.

It is Scottish Government policy that contracts must be awarded on the basis of VfM.

## **7. Buying sustainably**

The Scottish Government 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; and
- delivers benefits not only for the organisation but for society, the economy and the environment.

The Scottish Government 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. Non Competitive Action

It is Scottish Government 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 application for NCA form. For NCA procurements up to £10,000 (excluding VAT), approval must be obtained in advance by at least Deputy Director level and logged on the database (available on the intranet). All requests to proceed with NCA for procurements over £10,000 must be approved in advance by Scottish Procurement.

In all cases the guiding principles are that NCA approval is by someone other than the DPO who will undertake the procurement to ensure adequate separation of duties. The NCA justification and approval must be formally recorded on eRDM.

## 9. Consultancy services

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

Value	Approver
Up to £10,000	Deputy Director
Over £10,000 to £50,000	Director General
Over £50,000	Cabinet Secretary for Infrastructure, Investment and Cities and the Cabinet Secretary for Finance, Employment and Sustainable Growth

The Scottish Government [consultancy procedures](#) provide further information.

## 10. Contract management

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

## 11. Ethical standards

It is Scottish Government 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 Scottish Government Staff Handbook at Section 4 (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.

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

The Scottish Government 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 can be found on the [Scottish Procurement](#) website.

## 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 the Scottish Government and one or more suppliers for the supply of specified goods, services or works. The contract sets out the details of what the Scottish Government is buying and being delivered with and the rights and obligations of both of the parties.
- **Contracts register**  
register of all Scottish Government regulated contracts.
- **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 Scottish Government individual with Delegated Purchasing Authority.
- **Electronic Record and Document Management (eRDM)**  
the Scottish Government's official electronic record and document management system.
- **Framework agreement**  
is an agreement between the Scottish Government and one or more suppliers for the supply of specified goods, services or works over a period of time. The framework agreement has agreed terms and conditions, defined pricing structure and if appropriate the quality requirements. 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 £5,000 (excluding VAT) or less. ePC's are a highly efficient, low cost and transparent way of making payments for low value, goods and services (transactions £5,000 (excluding VAT) or less). Their use is controlled, monitored and audited by rigorous application of a Scottish Government's policy and process. This replaces the arrangements formerly provided by the Government Procurement Card (GPC).
- **Non Competitive Action (NCA)**  
is an approval process which permits a contract without competition to be awarded.
- **Procurement**  
means the process leading to the award of a public contract or framework agreement or establishment of a dynamic purchasing system for the acquisition of works, supplies or services from an economic operator.
- **Procurement Journey**  
a toolkit providing practical guidance on procurement procedures.
- **Public Contracts Scotland (PCS)**  
the national advertising portal used to advertise all Scottish Government 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 the Scottish Government and other relevant bodies on the proper handling and reporting of public funds.
- **Sustainability**  
a process whereby the Scottish Government meet their needs for goods, services, works in a way that achieves value for money on a whole life basis and generates benefits not only to the Scottish Government, 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.