



PROCUREMENT POLICY AND PROCEDURES

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**Document Owner
Director of Finance**

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1. INTRODUCTION

- 1.1 The South of Scotland Enterprise Agency (SOSE) is committed to the adoption of best current practice in its Procurement function to ensure compliance with relevant regulations and to provide an effective service to all SOSE stakeholders.
- 1.2 The priority for all public procurement is to achieve sustainable, value for money. Value for money does not, however, mean 'lowest price'. It is defined in the Scottish Public Finance Manual as "the optimum combination of whole life cost and quality to meet the end user's requirement".
- 1.3 The purpose of this Procurement Policy is to set out guidelines for SOSE staff that are engaged in procurement activity in order to ensure compliance with varying statutory requirements.
- 1.4 It will help ensure that we:
 - Correctly identify the goods and services (or works) needed to achieve objectives;
 - Perform a critical evaluation of what is purchased and why;
 - Obtain the goods and services (or works) needed at the right price, time and quality;
 - Can demonstrate a robust and reasonable decision-making process.

All members of SOSE with a purchasing responsibility should refer to this policy document before committing SOSE to any expenditure. If you are in any doubt about any part of this policy, please contact the Procurement Manager.

- 1.5 This guidance does not apply in the case of acquisition or rental of land, buildings or other immovable property, employment contracts, arbitration or conciliation services.
- 1.6 The main duties of the Procurement team are to:
 - Carry out tendering or quotation processes for contracts, especially those above £50,000 which are regarded as regulated spend;
 - Provide an efficient service to stakeholders within SOSE to meet their purchasing requirements;
 - Monitor procurement procedures throughout SOSE;
 - Reduce the amount of off-contract expenditure.
 - Manage all business-critical contracts in-conjunction with a key stakeholder.

2. THE PUBLIC SECTOR CONTEXT

2.1 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 with support from Procurement.

2.2 Key principles of Procurement policy are:

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.

Legal aspects - contracts for the procurement of goods, services and works must be in writing and awarded by a Director or Chief Executive in line with the Delegated Authority Policy.

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 - Delegated Purchasing Officers (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](#)

2.3 The Procurement team has a legal, moral and ethical responsibility to ensure that all accountable SOSE spend is compliant with all legislation and that all contracts and agreements are awarded to meet its operational and strategic requirements.

- 2.4 Most importantly we must demonstrate that our purchases are value for money and our Policy is consistent with the Scottish Government Policy Handbook:

<https://www.gov.scot/publications/public-procurement-reform-programme-scottish-procurement-policy-handbook/pages/0/>

- 2.5 Staff and agents of SOSE are required to declare any “conflict of interest” they have when dealing with individual suppliers, or the letting of contracts. Further advice can be obtained from the Procurement Manager.
- 2.6 All SOSE staff should be mindful of their public duty and that acceptance of gifts and hospitality may impair objective consideration of selection of a supplier. For this reason, unless a gift is of low value, it should not be accepted (any gifts that are accepted must be recorded.)
- 2.7 Suppliers are advised that they must not do anything that gives or offers any kind of inducement or reward to any SOSE employees in relation to any contract. It may be a criminal offence to do any of those things and staff should be aware of the Public Bodies Corrupt Practices 1889 and The Prevention of Corruption Acts 1906 and 1916. All SOSE staff are advised against accepting any kind of corporate hospitality and must report it to their line manager.

3. PROCUREMENT REQUIREMENT

- 3.1 All purchases made by SOSE are subject to audit. SOSE must demonstrate that it has been meticulous in its procurement methods and that they stand up to scrutiny of both internal and public enquiry. In addition, under the terms of the Procurement Reform Act 2014 we have a legislative requirement to publish information on contracts over £50,000.
- 3.2 We should ensure that all our suppliers of goods and services are covered by an appropriate contract, and/or a SOSE purchase order.
- 3.3 You must firstly assess the whole life cost of your requirement. For example, if you are considering an IT development, you will need to assess the cost of development, implementation and ongoing maintenance of the system. VAT is excluded when making this calculation. If the value of the proposed contract is over £50'000 it is critical that Procurement are involved from the outset.

- 3.4 If the estimated new commitment for any goods and services is below £50,000 and above £5,000 a Quick Quote process facilitated by Procurement should be carried out unless a suitable framework contract can be utilised. Anything below £5,000 it is best practice to obtain 3 quotes where practicable. As above Procurement can advise and support from the outset.

Construction projects

- 3.5 Additional factors need to be taken into account for this type of procurement including the construction Industry Scheme (CIS), whereby SOSE may need to deduct money from a supplier's payments and pass it to HM Revenue and Customs (HMRC). Procurement must be contacted at the outset to provide guidance.

4. PROCUREMENT ROUTE

Treaty of Rome

- 4.1 The Treaty of Rome applies to all public procurement regardless of whether specific directives or regulations apply to individual requirements. The Treaty prohibits any discriminatory treatment of suppliers and requires a fully open and transparent process. In practice this requires a formal, competitive process that is advertised appropriately.
- 4.2 You should initially contact the Procurement team who will advise on the best route to market. Generally, it will depend on two factors:
- Whole life cost of the product / service;
 - Complexity of the item:

Commitment of a Contract

- 4.3 All goods and services contracts must be signed by the appropriate authorised Director or Chief Executive as per our Delegated Authority. Once the contract has been authorised a purchase must be raised on the Agresso Finance system at the outset to cover all related invoices.

Purchase Orders

- 4.4 Regardless of the value, all purchases must be made via the Agresso Finance system to enable an authorised purchase order to be raised and sent to the supplier before any good or services are ordered. A Government eProcurement Card may also be used for low value or one-off purchases. It must NOT be used for:

- IT Software and Hardware purchases
- Personal Travel and Subsistence expenses
- or Withdrawal of cash for business or personal use.

Goods or services covered by a collaborative contract or framework agreement

4.5 SOSE will in the first instance take advantage of any compliant framework or collaborative agreement which offers value for money, fit for purpose goods or services.

Goods or services not covered by any other arrangements

4.6 The chosen route will depend on the financial value of the contract.

Contracts greater than EU Threshold

4.7 Unless covered under a compliant framework the Scottish Government Procurement Journey process will be followed and a full OJEU tender will need to be undertaken.

4.8 Contracts must not be split into smaller amounts, with the sole intention of avoiding compliance with these Regulations.

OJEU Procurement Thresholds

4.9 The Public Contracts (Scotland) Regulations 2015 and the Public Contracts and Utilities Contracts (Scotland) Regulations 2016 applies to SOSE Procurement and must be complied with.

4.10 Public Contracts (Scotland) Regulations 2015 regulates that EU Regulated procurements must be advertised on Public Contract Scotland (PCS) and in the Official Journal of the European Union (OJEU) when their estimated value is equal to or greater than the thresholds below:

Summary of thresholds from 1st January 2020 (net of VAT)

PUBLIC CONTRACTS (SCOTLAND) REGULATIONS 2015

	Supplies	Services	Works
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South of Scotland Enterprise Agency	£189,330	£189,330	£4,733,252
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4.11 Procurement Reform (Scotland) Act 2014 regulates that procurement must be advertised on Public Contracts Scotland (PCS) when their estimated value is equal to or greater than the Reform Act thresholds below:

Goods and services, including framework agreements and dynamic purchasing systems	£50,000
Works contracts, including framework agreements and dynamic purchasing systems	£2,000,000

Failure to comply with this legislation carries severe penalties for which SOSE would be held accountable.

4.12 There are potentially 6 procedures set by EU regulation for inviting firms to tender:

Open Procedure	Use freely
Restricted Procedure	Use when justifiable
Competitive Procedure with Negotiation	Use when justifiable
Competitive Dialogue	Use when justifiable
Innovation Partnerships	Use when justifiable
Negotiated Procedure Without Prior Publication	Use only in the permitted instances

4.13 Minimum Timescales:

	Dispatch of Prior Information Notice (PIN) Minimum Days	Selection Stage Minimum days	Award Stage Minimum Days
Open Procedure (electronic submission)	N/A	N/A	30
Open Procedure (publication of compliant PIN)	35	N/A	15

Restricted Procedure (electronic submission)	N/A	30	25/10
Restricted Procedure (publication of compliant PIN)	35	30	10
Restricted Procedure (use PIN as a call for competition)	35	30	30/25/10
Competitive Procedure with Negotiation (electronic submission)	N/A	30	25/10
Competitive Procedure with Negotiation (publication of compliant PIN)	N/A	30	10
Competitive Procedure with Negotiation (use PIN as a call for competition)	35	30	30/25/10
Competitive Dialogue	N/A	30	None
Innovation Partnerships	N/A	30	None
Negotiated Procedure Without Prior Publication	N/A	N/A	None

4.14 The European Single Procurement Document (ESPD) is used to evaluate the best potential suppliers to shortlist and invite to tender. Best practice suggests that you should obtain at least three responsive tenders where possible. The Regulations require that a minimum of five tenders are invited for the Restricted process, where the five are capable of delivering the requirement.

- 4.15 In any procurement equal to or greater than £4,000,000, which commences on or after 1st June 2016, SOSE must consider whether to impose community benefit requirements as part of the procurement:
- A summary of the community benefit requirements that will be included in the contract; or
 - Where SOSE does not intend to include any such requirements, a statement of its reasons for not including any requirements;
 - Where community benefits are included in a regulated procurement, SOSE must include in the award notice a statement of the benefits it considers will be derived from those requirements.

Community Benefits Clauses on the Scottish Government website:
<http://www.gov.scot/Topics/Government/Procurement/policy/corporate/responsibility/Sustainability/CommunityBenefits>

5. TENDERING PROCESS

Selection of Suppliers

- 5.1 The objective is to identify companies that have the necessary resources and capability to meet the specified requirements and to ensure that suppliers are selected in a way that is fair and transparent. In practice, for all but very low value requirements this will mean advertising our requirement and will be posted on the Public Contracts Scotland Portal. The Quick Quote facility will be used to obtain quotations.

Corporate Social Responsibilities

- 5.2 When selecting suppliers to be invited to submit a quotation or tender for procurements below £50,000 SOSE should provide opportunities for Small and Medium Sized Enterprises (SMEs) to compete for business.

Sustainable Procurement Duty

- 5.3 SOSE is required by law to take account of the sustainable procurement duty and community benefit requirements for procurements which commence from 1 June 2016. SOSE will conduct the procurement and act with a view to secure improvements to the economic, social and environmental wellbeing. SOSE will consider before conducting any regulated procurement how it can facilitate the involvement of SME's (in particular within the South of Scotland region), third sector bodies, supported businesses and promote innovation.

The statutory guidance, which was published on 17th March 2016, provides details of the specific obligations relating to both the sustainable procurement duty and community benefits. <http://www.gov.scot/publications/2016/03/8410>

Small and Medium Sized Enterprises (SMEs)

- 5.4 Part of SOSE' role is to foster the development of small and medium sized enterprises. A micro / small / medium sized enterprise employs fewer than 250 people. Procurement has a strong role to play in Corporate Social Responsibility, especially in relation to the way in which SOSE treats its suppliers and in the way suppliers treat their sub- contractors; labour conditions along the supply chain; support

for SME's and local production; fair trade; and selection of environmentally friendly products and services.

Reserved Contracts for Supported Businesses

- 5.5 Participation in any EU, concessions or Reform Act regulated procurement may be reserved by SOSE for (1) Organisations that are supported businesses; (2) suppliers who operate an employment programme, the main aim of which is the social and professional integration of disabled or disadvantaged persons or may provide for this to be performed in the context of supported employment programmes. In all cases the reservation is only available to economic operators where at least 30% of their workforce is disabled or disadvantaged. When advertising in the OJEU and/or Public Contracts Scotland SOSE must make it clear that the opportunity is a reserved contract or concession.

Selection of Suppliers for Tenders

- 5.6 It is important to ensure that it is the supplier's capability that is being evaluated (e.g. financial standing; relevant experience; technical facilities available.) This should not be confused with tender evaluation which considers the supplier's actual submission (i.e. the goods and/or services are being evaluated.) Selection criteria (and any associated weightings) must be issued to suppliers with the prequalification documentation.
- 5.7 The extent of evaluation necessary to produce a tender list should always be appropriate to the value, complexity and risk of the requirement. The new regulations - the Public Contracts (Scotland) Regulations 2015 contains strict rules relating to the selection of tenderers and these must be followed for all relevant requirements. Suppliers can be excluded on the basis of poor performance.

Financial standing of Suppliers

- 5.8 As part of the due diligence process to select tenderers, a commercial evaluation, including a supplier's financial standing, will be carried out by the Procurement team to ensure that a company is viable and will be able to provide continuity of supply. We need to consider the annual value of the contract in relation to the supplier's annual turnover to ensure that it will not become overly dependent on SOSE as a continued source of revenue. According to the Public Contracts (Scotland) Regulations 2015, the yearly turnover requirement should be limited to twice the contract value (unless justified).

- 5.9 However, to support SME's and Social Enterprises, the financial evaluation should be based on a risk assessment of the contract and should not, for example, exclude new businesses that have no financial history or Social Enterprises with limited liquidity / cash flow if this represents no risk to SOSE.

Specification

- 5.10 Using a performance or output-based specification means that suppliers have the opportunity to suggest solutions that would meet the requirements. SOSE then has a choice as to which solution would best suit the business. Producing such a specification will help SOSE to consider the outcomes it wishes to achieve rather than concentrate on the complexities of the solution and leverage the experience and knowledge of the suppliers.

To start an output based - specification, ask the question "What is the end product I require?" This will enable SOSE to define the benefits of any proposed solution and track the delivery of those benefits. This will also allow the Procurement team to identify the suggested solutions that will add value.

Non-Competitive Action (NCA)

- 5.11 There will be very few occasions where this can be justified and it should only be granted in exceptional circumstances as, without competition, it is difficult to achieve value for money and difficult to demonstrate that the procurement process is robust. The following situations may allow for NCA:

- For work of exceptional urgency caused by unforeseeable circumstances e.g. emergency situations (Acts of God) where competitive tendering would cause unacceptable delay;
- The supplier possesses unique or specialised capacity, that is not available from another source;
- Intellectual property rights restrict supply;
- A recent best value supplier is likely to remain so in another competition (i.e. evidence of recent market testing).

- 5.12 Failure to appreciate the timescales required for competition is not an acceptable reason for NCA.

- 5.13 In all cases the guiding principles are that approval must be obtained in advance by someone other than the purchaser who will undertake the procurement (i.e. adequate separation of duties) and the justification must be formally recorded on file. The approval must be granted at SOSE Executive Director level.

Tender Opportunities

- 5.14 All tender opportunities with an estimated value of £50,000 or more will be advertised on www.publiccontractsscotland.gov.uk . All potential suppliers to SOSE are advised to register with this free service. Additionally, Construction Industry suppliers are advised to register with www.constructionline.co.uk as registration shortens SOSE' ESPD submission.

Invitation to Quote

- 5.15 Invitation to Quotes will be sent either via the quick quote portal on PCS or sent directly to suppliers via e-mail depending on value or complexity of contract.

Invitation to Tender (ITT) Document

- 5.16 An invitation to tender may range from a letter, to a full ITT that will contain the following set of documents:
- Covering Letter;
 - Instructions for Tendering - advice on the criteria on which the contract will be awarded and the format of response required;
 - Form of Tender;
 - The Specification - information of evidence required in the bid to illustrate a supplier's ability to provide the goods / services required;
 - Tender Evaluation Criteria;
 - SOSE Standard Terms and Conditions of Contract; □ Pricing Schedule.
- 5.17 SOSE Standard Conditions of Contract are appropriate for the majority of goods and services, and model contracts will be more appropriate for large construction projects. If additional or special conditions of contract are required, then appropriate legal advice should be sought through the Procurement team.
- 5.18 The tender evaluation criteria are normally a general indication of the criteria to be applied. In some cases, it may include the full evaluation criteria with weightings, however care should be taken as this can lead responses, rather than facilitating comparison between tenderers.

Evaluation Criteria and Associated Weightings

- 5.19 All criteria (including sub-criteria) to be used to select suppliers or evaluate tenders must be determined prior to invitations to tender being issued, weighted according to their relevant importance and issued to suppliers with the relevant documentation (e.g. the OJEU Notice or the ITT and any associated evaluation guidance.) They must not be amended or added to at a later date.

Public Contracts Scotland

This is the public sector's electronic portal where suppliers can access essential information on opportunities to offer services and bid for contracts for the supply of goods, works and services to the whole public sector in Scotland. The purpose of PCS is to:

- Increase competition and support 'Best Value';
- Provide valuable free contract information to suppliers;
- Support the public sector to achieve a more transparent tendering process and adhere to EU rules;
- Build stronger communication links with buyers and suppliers;
- Stimulate growth in Scotland.

www.publiccontractsscotland.gov.uk

Issuing Tenders

- 5.20 The ITT is issued to all shortlisted companies at the same time through PCS and accompanied by a request for acknowledgement of receipt.
- 5.21 The closing date and time for return of tenders is fixed. When exceptional circumstances require amendment then all tenderers must be advised of the new date and time and be given the opportunity to resubmit their tender if it has already been submitted.
- 5.22 The names of companies invited to tender remains confidential, to prevent collusion between companies on the list.
- 5.23 Potential suppliers cannot demand to be included on the tender list, or demand reasons for their selection or non-selection.

Receipt of Tenders

- 5.24 All tender submissions must be returned through the Public Contracts Scotland portal or PCS-T by the date and time specified. The electronic mailbox cannot be opened by anyone other than the designated members of SOSE Procurement team.

Opening of Tenders

- 5.25 All electronic bids should be opened as soon as practicable after the closing time stated for the receipt of the tender documents.

Deceleration of Interest/Potential Conflict of Interest

- 5.26 The Procurement team and other SOSE staff must declare and record any personal interest that might influence, or be seen by others to influence, their impartiality in arriving at a decision. Those who have business or personal relationships with, or friends / relatives employed by, outside organisations bidding for SOSE contracts must inform their line manager and the Procurement Manager at the outset.

Tender Clarification

- 5.27 Where a tenderer requests clarification then the overriding principle is equality of information i.e. any questions raised and answers given should be confirmed in writing and sent to all potential tenderers.
- 5.28 For some projects it may be appropriate to schedule an “open suppliers meeting” into the tender timetable to provide a more detailed opportunity to clarify information. Again, questions and answers should be documented and sent to all potential tenderers, whether or not they were represented.
- 5.29 SOSE may request further information from tenderers in order to facilitate assessment of their offers, but it is forbidden to negotiate the terms of their offers.

6. EVALUATION PROCESS

- 6.1 An evaluation panel of at least two people should be established and consist of individuals with demonstrable technical ability to evaluate tenders, this may or may not include the Procurement Officer. The evaluation panel should be able to withstand any scrutiny and no member should be associated in any way with any of the tendering suppliers without prior declaration of interest (to avoid any possible conflict of interest). Further officers should be added with sufficient technical ability to evaluate detailed tenders, if required. The panel must:
- Evaluate the tender against the pre-determined evaluation criteria sent out in the ITT;
 - Prepare a tender evaluation report which makes the recommendation for award; and
 - Ensure SOSE' Procurement Policy is adhered to.

Ideally the panel membership will be consistent throughout the entire process from pre-qualification to presentations and site visits.

- 6.2 All evaluations must at least include checking the arithmetical accuracy of the tenders, considering the whole life cost of the purchase, and, ensuring that all proposals comply with requirements of the specification.
- 6.3 Evaluation criteria should allow comparison, in capability, commercial, technical (including performance), and financial terms. If any of the criteria are mandatory and not met, the result must be a rejection of the tender.
- 6.4 Justification for scores must be recorded (particularly for scores above or below the level necessary to demonstrate the ability to meet the specified requirement) as this will be used to provide debriefs to unsuccessful tenderers.
- 6.5 Further evaluation may also be required, e.g. site visits; presentations; validation of software. Tenderers must be notified in advance (i.e. in the ITT documentation) of any additional evaluation that will take place and how it will be taken into account.
- 6.6 For large and complex projects the tender evaluation report may go to a project board (if created), then to senior management for the final decision on award of contract.
- 6.7 Throughout the process the members of the team must be objective, even-handed and transparent when making their decision and must make sure that the evaluation is run without favouring any one supplier. The panel members should read and score the quality/technical aspects of the tenders independently using pre-defined evaluation criteria and scoring system prior to a moderation meeting taking place. At the moderation meeting the evaluators come together to agree the final scores. The process to agree the final scores must be fully transparent and documented. The Procurement Manager should evaluate the commercial aspects of the tenders separately, including the price evaluation. As a matter of good practice, no member of the evaluation panel should assess both the Quality / Technical elements and the commercial elements of the tender. The evaluation criteria and scoring methodology should have been determined as part of the Develop Documents stage and published to tenderers in the Invitation to Tender (ITT) or OJEU advert.

The role of the Procurement Manager in the evaluation panel is to ensure an impartial and objective approach is taken to the evaluation of tenders.

Clarification of Bids

- 6.8 When seeking clarification, all communications with the tenderer must be recorded. The objective at this stage is to evaluate tenders as submitted, not to negotiate changes. It also provides tenderers with the opportunity to confirm their understanding of the requirement.

Contract/Relationship Management

- 6.9 The Procurement team and other SOSE staff involved in the procurement process must always act with courtesy and be honest, fair and impartial in their dealings with suppliers. Relationships with suppliers must always be conducted on a professional basis with proper regard to ethics and propriety. For business-critical contracts regular contract review meetings with balanced scorecards should be used to manage performance and ensure contract operates to optimum level.

Post-Tender Clarification

- 6.10 Post-tender clarification may take place after the initial evaluation of tenders and before the letting of a contract. The objective of clarification at this stage is to ensure that all outstanding risks have been addressed and that best overall value for money is achieved in terms of quality and cost. It is essential that clarification is held only when appropriate, and in a manner that does not put other tenderers at a disadvantage, or damage supplier confidence in the competitive tendering process.

Award of Contract / Mandatory Standstill Period

- 6.11 Before the contract is signed with the successful supplier a mandatory standstill period of at least ten calendar days following the notification of an award decision must elapse in a contract tendered via OJEU. This allows a period of time between the notification of a contract award decision and the commencement of that contract to allow unsuccessful bidders to challenge the decision before the contract is formally signed.
- 6.12 For OJEU contracts the Procurement team will publish a contract award notice in the Public Contracts Scotland portal within 48 days of awarding the contract advising the name of the successful tenderer, the awarding criteria and the value of their bid.
- 6.13 The contract documents will comprise:
- Specification/scope of requirements;
 - Pricing Schedule
 - KPI's and or SLA
 - T&C's

- 6.14 Unsuccessful bidders should be notified immediately after the winning bidder.
- 6.15 Prior written consent from SOSE is required before a tenderer can publicise the contract award. Any publicity must be entirely factual, and not include any endorsement approval of the tenderer by SOSE or the Scottish Government.

Debriefing Suppliers

- 6.16 All unsuccessful suppliers must be offered a debrief to explain why their bid was unsuccessful. It is SOSE' policy to also offer a debrief to successful suppliers. The debrief should be as helpful as possible and designed to promote a supplier's future improvement.
- 6.17 For contracts above the current EU threshold, debrief information must ensure that the reasons for the award decision are released at the start of the standstill period, rather than on request (i.e. within the award decision letter).

Document retention

- 6.18 All contract documentation must be retained for 7 years after contract completion.
- 6.19 Unsuccessful tenders and PQQs should be retained for 3 years after contract completion.

7. CONTRACT TERMS AND CONDITIONS

- 7.1 Since verbal agreements can be construed as contracts under Scots Law, SOSE staff should consult with the Procurement team before any general discussions take place with suppliers.
- 7.2 All contracts will be governed by our standard SOSE' Terms and Conditions of Contract. SOSE staff must not sign any documentation which contains a supplier's terms and conditions. More complex purchasing requirements (such as works or FM contracts) will require more detailed terms and conditions but they should be consistent with the standard terms and conditions. If in any doubt please contact the Procurement Team.
- 7.3 The length of a contract should be appropriate to the procurement strategy decided for each category of procurement e.g. building long term strategic relationships may require terms of 7 years plus, whereas easily switched commodity markets may provide better value for money with 1 year terms.
- 7.4 The only limits on this flexibility are:

- framework contracts issued by central buying agencies which are limited to a maximum 4-year term by EU Regulations;
- contracts issued where the tender used the “Negotiated procedures” which are limited to a maximum 3-year term by EU Regulations.

Fair Work Practices

- 7.5 SOSE will ensure that all suppliers/contractors or sub-contractors are paid at least the Real Living Wage as outlined by the Living Wage Foundation and shall not use zero hours contracts in relation to any contracts with SOSE. SOSE will also ensure all suppliers/contractors or sub-contractors comply with the Equality Act 2020 (Gender Pay Gap Information Regulations 2017) where they have a duty to publish an annual report and make this report available to SOSE.

Community Benefits

- 7.6 SOSE are required to consider including community benefit requirements for all regulated procurements where the estimated value of the contract is equal to or greater than £4 million. Their use does not need to be limited to procurements of this value as research has shown that community benefits can be achieved in procurements under the £4 million threshold. SOSE will consider these benefits for all contracts with a particular emphasis on the South of Scotland area.

Environmental Procurement

- 7.7 Environmental procurement leads to the embedding of environmental considerations into routine procurement decisions, the delivery of better value for money (e.g. through buying energy-efficient products), an improved organisational environment and improved reputation. This can be achieved by building environmental considerations into all aspects of the procurement process.

Sustainability

- 7.8 SOSE is committed via the Sustainable Procurement Duty, 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. yp

What is sustainable procurement?

- 7.9 Sustainability must be incorporated into the whole procurement process: defining the need, evaluating options, design and specifying,

supplier selection, tender evaluation, post-contract management and supplier development.

- 7.10 The Procurement team has a very significant impact on the environment and a key priority is to ensure this impact is minimised as far as possible. SOSE is committed through its buying decisions to:
- Work only with organisations which can demonstrate the environmentally minded and ethical management of their business, specifically by demonstrating:
 - How they source the materials that go into the products that they make (their supply chain policy);
 - How they minimise the impact on the environment through running an energy efficient, and toxic free, plant and office environment;
 - How they dispose ethically of their waste products (i.e. re-use as much as possible with landfill the last option).
- 7.11 All products that SOSE purchases should support its position as a Fair -Trade Partner.
- 7.12 SOSE will also support local business wherever possible.
- 7.13 Sustainable Procurement is essentially about how, as part of overall value for money and affordability considerations, we take account of the economic, social and environmental impacts of purchasing activity, maximising the positive outcomes and minimising the negative. Details on how to maximise sustainability outcomes are available from the [Scottish Sustainable Procurement Action Plan](#).
- 7.14 The EU encourages sustainable procurement as long as it is non-discriminatory. SOSE may include sustainable development objectives, however the award of contracts should not be made subject to criteria or conditions which are not directly relevant to the product or service which is being procured.

[Extensions to Contract](#)

- 7.15 As the length of a contract will have been agreed through the procurement strategy, it is generally not acceptable to extend the period of the contract. Staff should ensure that they review their contracts and plan for new procurements. If they believe that the contract term should be extended, they must contact the Procurement team as early as possible to discuss this.

[Payment Terms](#)

- 7.16 SOSE will pay suppliers electronically through Bankers Automated Clearing Service (BACS) to facilitate prompt payment. We will pay suppliers in line with Government guidelines at the time of payment.

8. SUPPLIER & CONTRACT MANAGEMENT

- 8.1 The award of the contract is not the end of the overall procurement process, but rather the start of the operational stage. The process for managing the contract will be dependent on the value, risks and impact to SOSE.
- 8.2 SOSE will work actively together with its suppliers to solve problems at the earliest possible stage and will seek to resolve contractual disputes using alternative dispute resolution mechanisms (negotiation, mediation) wherever appropriate.
- 8.3 We will ensure that an agreed strategy is developed with the successful supplier on the contract management measurements and deliverables. The respective responsibilities of the contract manager and the supplier are clear and potentially defined in a “joint statement of intent” or similar document.
- 8.4 SOSE will, wherever possible, avoid unrealistic and unnecessary changes in dates or timescales, particularly in the event that requirements change but ensuring that key decisions are communicated promptly to the supplier in the event that the project is revised.
- 8.5 If the need to consider or propose changes to the contract arises, do so constructively and in consultation with the supplier, seeking to maintain value for money and minimise the potential adverse impact on performance, cost and timescale.
- 8.6 SOSE will seek to mitigate disruption, delays and additional costs, however they may be caused. In particular, keeping procedures as simple as possible and taking other actions as appropriate in order to eliminate all unnecessary costs to both parties.
- 8.7 Reporting should be, as far as possible on a “by exception” basis with supplier self-measurement and reporting where appropriate but with independent checking mechanisms to alert SOSE contract manager to performance issues such as user feedback forms.
- 8.8 For business-critical contracts the Procurement team along with a key stakeholder will facilitate regular contract review meetings with key supplier personnel to ensure maximum performance and resolve any issues. A balanced scorecard may be used to record and monitor performance.

- 8.9 SOSE will ensure there is appropriate senior management backing for projects from the outset until successful completion.

9. FREEDOM OF INFORMATION

- 9.1 The Freedom of Information (Scotland) Act 2002 designates the South of Scotland Enterprise Agency as a “Scottish public authority” and therefore subject to the provisions and obligations of that Act. Information relating to procurement policies, procedures and decisions will be released on request unless there are convincing reasons not to do so.
- 9.2 SOSE must reject any tender which includes a blanket claim for confidentiality as we may be required to disclose information:
- according to the provisions of the Freedom of Information (Scotland) Act, 2002;
 - according to EU Directives or any other legislation; and,
 - to those UK Government departments and bodies which are entitled to it.
- 9.3 Receipt by SOSE of any material marked “Confidential” or equivalent should not be taken to mean that we accept any duty of confidence by virtue of that marking.

10. GRANTS VERSUS PROCUREMENT

- 10.1 It's important Grants are not awarded whereby SOSE receives any goods or services in return or any current in-house service is outsourced. In these situations Procurement rules would apply.
- 10.2 If a Grant is awarded which is to be used for any type of works; clause 14(1) of the Public Contracts (Scotland) Regulations 2015 will apply if the value exceeds 50% of the applicable threshold currently £4,733,25 (Jan 2020).

11. KEY POINTS FOR STAFF

- 11.1 If you are looking to award a contract for any good or services over £50,000 in total, a tender process will be required. If under £50,000 a quotation process will be required. Contact Procurement at the outset who can advise the process.
- 11.2 If the goods or services you require are on a compliant framework then the above will not be required although there will still be a process to follow under the relevant framework rules. Again, contact Procurement who can explain what's required.

- 11.3 Remember a purchase order must be raised and approved (or in some cases a Government Procurement Card) before any goods or services can be ordered from a supplier. Invoices will not be paid without a purchase order number.
- 11.4 If unsure contact Procurement who will provide support and advice.
- 11.5 Check that any Grants awarded are not covered by Procurement regulations and if unsure seek Procurement advice.

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