

PROCUREMENT MANUAL

UNIVERSITY OF STRATHCLYDE



**Document Management**

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The content of the Manual is subject to review and may require updating over time, as required.

The Manual will be located on the University of Strathclyde’s (UoS) website. Updates will be incorporated into the Manual when they have been approved following a change control process, signed off by the Head of Procurement. Each release of the Manual will be given a unique version number and date.

This format will allow future updates and information to be added, amended or deleted without having to resort to a complete reprint of the whole manual.

This publication supersedes and replaces all previous issues. **Please ensure that you are reading the latest version of the Manual.**

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# Foreward

Non-salary expenditure, or the procurement of goods and services, accounts for circa 40% of the University of Strathclyde’s (UoS) total budget. This is a significant resource which requires application of best management practices.

Furthermore, in the current challenging economic environment, it is more important than ever that we can demonstrate that we are obtaining best Value for Money (VFM) by developing efficient and effective procurement strategies and by benchmarking performance against other Institutions and Private Sector organisations.

Efficient and effective procurement carries many commercial risks which can be more challenging within a decentralised organisation such as the UoS.

Following the principles set out by John McClelland in his review of Public Sector Procurement, an internal review of UoS procurement activity was carried out. This outlined the current position within the University and proposed various recommendations to further improve and develop procurement in order to achieve best practice.

As a result of the review, a revised Procurement Manual has been produced by University Procurement Services (UPS) which also takes into account key outputs from Professor Ian Diamond’s September 2011 ‘Efficiency & Effectiveness in Higher Education’ report. It contains details of the new policy, strategy and includes procedures and guidelines which are considered essential for improving performance. This performance will be monitored and reported on over the five years of the University’s Strategic Plan.

UPS is committed to achieve the maximum efficiency, effectiveness, and value for money in the acquisition of goods, services, and consultancies for all non-salary spend within the University

**This will be achieved through:**

* compliance with legislative requirements
* the use of modern and robust procurement ‘best practice’
* the use of rigorous quality and operational standards
* the use of eProcurement technology to drive additional efficiencies
* open and fair treatment of suppliers
* close consultation & communications with our internal stakeholders

**UPS commitment extends to conducting our business:**

* to meet our strategic procurement objectives
* to meet our wider corporate social responsibility objectives through procurement in an open and transparent way
* by efficiently managing/allocating risk
* by ensuring safeguards are in-built against allegations of corruption or bias
* by maintaining a proper audit trail to support our actions
* by providing documentary evidence for management purposes
* by demonstrating VFM

Signed:

Signature redacted

Steven Wallace

Chief Financial Officer

University of Strathclyde

Date: 11/11/2020

# INTRODUCTION

## UPS Mission Statement

***"To work collaboratively with Faculties, departments, suppliers and other public bodies to implement efficient and cost-effective sustainable procurement practices that deliver best Value for Money on Supplies, Services and Works whilst supporting the University's Strategic Plan﻿".***

## Aims & Objectives

This manual has been produced to provide assistance and guidance to anyone possessing authority to spend University, Grant or Research funds and should be read by Heads of Departments, Budget Holders and Departmental Purchasing Coordinators.

This publication is intended to be a first reference point which can be read either in its entirety or by individual section as required.

## Communications with Departments

The University’s landscape of devolved budgets, means a pre-requisite for Procurement success is an effective two way communication link between UPS and all departments that will:

* increase people’s understanding of, and access to, our services through pro- active communication to the user community.
* ensure that users and others are aware of current issues, legislation changes, new contracts and plans for the future.
* listen to the needs of users so that the right priorities can be established and responsive services developed and delivered.
* maintain an appropriate and positive profile and reputation.
* encourage an informed and engaged workforce through good internal communication within the team and the organisation.

## Procurement Manual Contents

This Procurement Manual (the “Manual”) contains the principles, practices, and conduct that all UoS staff must adhere to when involved in procurement activity.

The Manual incorporates ‘best practice’ regarding the way UoS will manage its activities, business relationships with suppliers and corporate social responsibilities together with the engagement, utilisation, and authority of other departments at all stages in the procurement cycle.

# OPERATIONAL PRINCIPLES & CONDUCT

## Procurement Policy



**General Statement of Principles**

The UoS is committed to obtaining best VFM and maintaining the highest standards of efficiency and integrity in the purchase of goods and services.

It is essential that all staff who commit expenditure are aware of the obligations placed upon them and comply with the University's Procurement Policy, Procedures and Guidelines.

As UoS is an organisation that receives public funding it is regulated, not only by the Companies Act, but also, by specific legislation that applies to public procurement and in some instance’s public authorities. There are many such pieces of specific legislation and regulations but the ones with the greatest impact upon procurement are the Public Contracts (Scotland) Regulations 2015 (as amended), the Procurement Reform (Scotland) Act 2014 (as amended) and the Freedom of Information (Scotland) Act 2002. There is also case law relating to the above.

**Policy Delivery and Operation**

The University operates a centralised Procurement function with a devolved budget system under which nominated budget holders are responsible for the management of their external resources. This system is supported by University Procurement Services (UPS), a central service, under the control of the Head of Procurement.

UoS personnel must comply with the principles and practices set out in this procurement manual, their contracts of employment as well as the University’s Financial Regulations.

<https://www.strath.ac.uk/professionalservices/media/ps/finance/financialregulations/Financial_Regulations.pdf>

These reflect current legislation and impose additional controls, including the delegation of authority and decision making requirements.

In case of uncertainty as to which policy or procedure should take precedence, UoS staff must take advice from line management or UPS.

**Key Elements**

All Procurement within the University is to be carried out in accordance with the Procedures and Guidelines stipulated in the Procurement Manual with particular emphasis on the following:

* All Heads of Department are required to nominate at least one member of staff as Departmental Procurement Co-ordinator.
* Departments are required to consult UPS at the planning stage on purchases and contracts exceeding £25,000.
* Procurement out with Framework Contracts or Agreements should be in accordance with the University's procedures on quotations and tenders.
* The University is committed to observing the highest standards of probity, integrity and fairness in all dealings with external suppliers and contractors. This will be achieved by adherence to the Ethical Code of Conduct in Procurement.
* All Heads of Departments to promote and support involvement of appropriate staff in Procurement training.

**If you require advice or assistance on any Procurement or related matters, please contact the Head of Procurement or the relevant team member through the contact details on our web page [University Procurement Services.](https://www.strath.ac.uk/procurement/ourteam/)**

## UPS Roles & Responsibilities

The purpose of UPS is to ensure that all procurement activity is conducted in compliance with the appropriate legislation, taking a strategic overview of the institutions’ procurement spend and ensuring delivery of best value in the procurement of goods and services.

UPS is primarily responsible for procuring legislatively compliant arrangements which includes devising individual commodity strategies, managing Stakeholder and User Intelligence Groups (UIGs), conducting the tendering process, undertaking the award of a Contract or Framework Agreement, and post award duties such as Contract Management and Supplier Relationship Management. Key activity elements include:

* conduct commodity profiling and market research and produce the Commodity Strategy and procurement timetable;
* compile the Invitation To Tender (ITT), ensuring the specification and commercial evaluation is comprehensive, non-biased and transparent. Also, that the ITT is suited to attract competition;
* manage the competitive tendering process, including the advertising of requirements, tender receipt, facilitation of evaluation criteria (including business probity and corporate social responsibility issues), tender evaluation and short listing of tenderers;
* organise and conduct any post-tender clarification needed, product trials, site visits etc. and undertake any appropriate post-tender negotiation;
* recommend the award of a Framework Agreement or Contract ensuring Value for Money (VFM) is demonstrated and all appropriate legislation, best practice and guidance have been adhered to;
* ensure that any other experts or authorities needed have been approached for advice and help as required, e.g. legal;
* finalise the Framework Agreement or Contract, which must be in writing, and ensure pertinent details are available on the Procurement Contracts Register which can be found on the Procurement Website
* ensure there is a clear audit trail and full and accurate record keeping of the procurement process undertaken including key stage sign off;
* debrief unsuccessful bidders on request;
* undertake management of the Framework Agreement or Contract and supplier relationship management;

UPS takes the lead role in assisting in the development of procurement staff, processes, systems, and best practice dissemination to ensure that these activities take place effectively and efficiently. This includes provision of procurement related governance and standards as well as performance monitoring and the tracking of efficiency savings benefits.

UPS also includes the eProcurement Team who are responsible for delivering eProcurement initiatives such as our eProcurement system, eTendering and eAuctions, as well as supporting the Benefits Tracking System.

## Procurement Strategy

The overriding aim of the University's Procurement Strategy is to influence the procurement process in all non-salary expenditure in support of the University's overall strategic objectives, a copy of which can be found on the Procurement website or by following the link below;

<https://www.strath.ac.uk/procurement/>

The strategy has been based around embracing the University’s Strategic Objectives, compliance with the duties of the Procurement Reform (Scotland) Act and ongoing commitment and updating of the Procurement Action Plan.

## User Intelligence Groups (UIG)/Stakeholder Groups

When a need is identified that is generally high value, complex and impacting upon various departments/faculties, then a UIG/Stakeholder Group will be created. This group contains people with specialist expertise in specific goods and services who meet when necessary to:

* provide effective governance in all aspects of the sourcing of the specified goods and services;
* define and implement a commodity strategy, which meets end-user requirements;
* provide specialist and informed input into the definition, standardisation and rationalisation of requirements and specifications;
* support key procurement decisions such as commodity profiling, supply market research, tender preparation and supplier evaluation;
* manage Supplier performance and, under the Procurement Officer/Category Manager supervision, provide a forum for Suppliers to present offerings and for innovation;
* promote collaboration in Institutions and support the management of compliance.

## Key Principles in Conducting Procurements

Procurement Policy states that all procurement activities must be carried out in accordance with the UoS's Policies, Procedures, Regulations and Guidelines which have been established to satisfy the following:

* Best VFM taking account of all factors – not just price alone.
* Procedures for Tenders and Quotations which accord with best practice and ensure genuine and fair competition
* Withstand scrutiny by internal and external auditors and examiners
* Encourage an innovative market response
* Protect the University's interests through adoption of standard Terms and Conditions of Purchase or Contract.
* An Ethical Code of Conduct which promotes and maintains the highest standards of probity and integrity in all dealings with external sources.
* Compliance with all Legislation directly or indirectly affecting Procurement issues, transactions and the goods or services being obtained.
* Ordering, Invoice Authorisation, and other procedures and controls which impinge upon Procurement transactions and, where appropriate, operate in parallel with the University's Financial Regulations.

## Single Source Justification (SSJ)

Public Sector Policy and legislation dictates that goods, services and works must be bought where feasible through genuine and effective competition. In **exceptional** circumstances, an SSJ may be necessary where competition is deemed unavailable or impractical. Examples include:

* for work of exceptional urgency caused by unforeseeable circumstances where competitive tendering would cause unacceptable delay e.g. after breakdown, storm, fire, H&S etc.;
* the proposed supplier is the only one known to possess either the unique technical, intellectual or artistic capability required to deliver the goods or services and by default are unobtainable from any other source.

In these circumstances an electronic Single Source Justification must be completed in respect of all orders exceeding £3000 (excluding VAT) where the proposed purchase is not being made under a recommended contract and where competitive offers are not or cannot be obtained.

Where the value of the proposed purchase exceeds £3,000 (ex VAT) the next stage is that the SSJ should be completed, approved by Head of Department and a copy retained for Audit purposes.

If the value of the proposed purchase exceeds £25,000 (ex VAT) the next stage is that the SSJ should be completed, approved by Head of Department and will be routed to Head of Procurement for final review. Heads of Department are required to complete the SSJ procurement training which can be access on the link below.

The electronic process for completing and submitting an SSJ can be found on the Procurement Share Point site.  You will be required to log in with your DS user name and password to gain access to this site.

<https://www.strath.ac.uk/procurement/procurementguidance/procurementtoolkitdocumentation/singlesourcejustification/>

## Value for Money (VFM)

It is critical that financial management, security and sustainability are at the heart of all our activities. Specifically, there is an underlying duty of care to ensure that public funds are spent on the purposes for which they were intended and that best VFM is obtained, irrespective of how they are funded.

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

As part of VFM, due regard to other relevant organisational policies is important, for example, policies in relation to Corporate Social Responsibility and Sustainability.

## Law, UoS Corporate Policies, Scottish Public Sector Toolkit

UoS will conduct its business in accordance with the applicable procurement legislation and Scots Law together with UoS’s Policies and Procedures, and the Scottish Public Sector Toolkit.

## Creation of a Contract & Framework Agreement by UoS

Under Scots Law, a contract is an agreement between two or more parties that is enforceable in law. UoS intends that all Contracts and Framework Agreements that UoS awards will be made in writing and that departments (and where applicable, other Institutions) will order from these by placing a Purchase Order.

The University's Terms and Conditions should always be used in contracts for the supply of goods or services. This is achieved through the processes of inviting Tenders or obtaining Quotations. The latest T&C’s can be found on the Procurement Website

Where a contract does not exist and departments purchase goods or a service on the supplier's terms, then these must be fully understood before signature. Once signed, both parties are bound by conditions which are legally enforceable and extreme caution is necessary.

UPS will be pleased to offer assistance or become directly involved in any departmental tenders, contracts or agreements.

**Framework Agreements and Contracts can also be entered into verbally by word of mouth or implied by the action of the parties even if no written contract exists. If it is suspected that this has taken place, the Head of Procurement must be immediately consulted before proceeding further with the procurement.**

## Procurement Ethics – Code of Conduct

The University is committed to observing the highest standards of probity, integrity and fairness in the conduct of business and to comply with all applicable laws and regulations. The principles of ethical behaviour in Procurement activity are to be observed by UoS staff at all times and are, but not limited to:

* ethical behaviour must be promoted and supported by appropriate systems, such as the governance arrangements and procedures set out in this Manual;
* the conduct of the UOS staff should not foster the suspicion of any conflict between their official duty and their personal interest;
* dealings with suppliers must at all times be open, honest and fair; and
* sufficient records to establish an audit trail to demonstrate that appropriate standards have been observed on each purchase must be maintained.
* that the action of individual members of staff in an official capacity should not give the impression to any member of the public, to any organisation with whom they deal, or to their colleagues that they have been, or may have been, influenced by a gift or consideration to show favour or disfavour to any person or organisation.

The University has various policies relating to ethics in Procurement and these should always be taking into consideration during any Procurement exercise. A list of Policies, Procedures and Guidelines can be found on the university website.

<https://www.strath.ac.uk/staff/policies/>

Links to policies to be considered (but not limited to) when procuring are included below:

* [Bribery Act](https://www.strath.ac.uk/media/ps/finance/forms/Anti-Bribery_&_Corruption_Code_of_Conduct.pdf)
* [Code of Practice and Conflicts of Interest](https://www.strath.ac.uk/media/1newwebsite/universitycourt/Conflicts_of_Interest_Approved_Sept_2018_with_Coversheet.pdf)
* [Gifts & Hospitality](https://www.strath.ac.uk/media/ps/finance/forms/Policy_for_Receipt_of_Gifts,_Hospitality_and_other_Benefits.pdf)
* [Fraud Prevention](https://www.strath.ac.uk/media/ps/internalaudit/fraud_prevention_policy_20110523.pdf)

**Confidentiality**

To ensure that no accusations of unfair and unequal treatment amongst tenderers could be raised, the UoS must be able to demonstrate it acts at all times with propriety, integrity and impartiality.

Access to information by tenderers will be made available at the same time and in the same manner thus not creating unfair advantage of one tenderer over another, and retains the confidentiality of certain aspects e.g. innovative proposals.

The prices, terms and conditions under which many of the suppliers to this University trade are the result of University, Regional or National negotiations and contain commercially sensitive information. Staff are issued with, and are given access to, these and other official contracts on the understanding that confidentiality is strictly observed.

In addition, all UoS personnel will ensure that information obtained, and documentation and decisions recorded, both during the procurement process and after award of the Contract or Framework Agreement, are treated as ***Commercial in Confidential.***

***Under no circumstances should any contractual or pricing information be divulged to external sources or used as a 'benchmark' for independent negotiations.*** This behaviour undermines the University's reputation as an honest and responsible organisation and can affect the stability of professionally negotiated contracts which benefit the entire HE community. There may also be issues associated with breach of contract.

**Sponsorship**

Due to the nature of the devolved budgetary and ordering system which operates within this Institution, suppliers can easily be inundated with separate requests for financial or other donations towards departmental events. This could adversely affect the University's image and reasonable care must therefore be exercised to ensure that enquiries are directed only to appropriate companies.

The Department of Marketing and Development Services is responsible for co-ordinating approaches and securing the largest proportion of sponsorship funding from external sources. The Director should be consulted for guidance - preferably at the planning stage and before any departmental sponsorship request is submitted to a supplier or contractor.

**Equality of Treatment between Suppliers and The Suppliers’Charter**

It is a requirement of public procurement law that potential tenderers are given an equal opportunity to compete for UoS’s business. This means that the UoS:

* must not discriminate between potential tenderers;
* must subject all potential tenderers to the same requirements and ensure fair competition and equal treatment throughout the procurement process; and
* must provide all potential tenderers with adequate, accurate and timely information at all the relevant stages of the procurement process.

UoS is committed to conducting its procurement activity in accordance with the Scottish Government’s [Public Sector Procurement Guidance](https://www.gov.scot/policies/public-sector-procurement/guidance-suppliers/)and in compliance with the appropriate legislation.

# PROCUREMENT CYCLE

## General Principles

Procurement encompasses all the activities required to buy goods and/or services and irrespective of whether the Procurement is department led (below £25k in total) or Procurement led the basic processes remain the same and are summarised as follows:

* determine the requirement;
* produce a specification to define the need;
* find and select potential sources;
* make an enquiry to the potential suppliers against the specification;
* evaluate the responses to the enquiry;
* negotiate the terms of the contract;
* prepare a purchase order and send to the selected supplier;
* manage the progress of the order:
* obtain acknowledgment of order;
* progress chase;
* monitor incoming goods and services, accept if satisfactory, reject if inadequate;
* deal with discrepancies;
* make payment for satisfactory goods or services;
* ensure that proper stock management controls are in place if the goods are to be held in stores.
* dispose of surplus assets.

## Mandatory Legislation

* Directive 2014/24/EU
* The Public Contracts (Scotland) Regulations 2015 (as amended)
* The Procurement Reform (Scotland) Act 2014 (as amended)

UPS is responsible for monitoring full compliance by the University. All potential expenditure exceeding £50,000 must be referred to UPS at the planning stage.

The Regulations impose strict rules upon tendering procedures which are outlined in the procurement training.

## Procurement Routes & Tender Thresholds

**Utilise existing Frameworks/Contracts**

A range of commodity orientated agreements have been established to facilitate the ordering process. University departments should utilise existing agreements which are available to them which satisfy their requirements and deliver value for money. Details of frameworks for the UoS can be found on the Contracts Register which is held on the Procurement website:

<https://www.strath.ac.uk/procurement/>

If no available agreement in place then departments should follow the quotation/tendering procedure below as applicable.

**Quotation Procedure (less than £25K)**

The quotation procedure for goods/services <£25k, will generally, but not always, be for low value requirements and relatively straightforward in nature. However, this is not always the case and each procurement should be considered on its own merits. Should the requirement prove contentious, complicated or sensitive please refer to UPS for advice on how best to proceed.

**Tendering**

Tendering can be a complex and time-consuming process. UPS will (for all tendering activity above £25,000) follow the [Scottish Government Procurement Journey routes](https://www.procurementjourney.scot/what-procurement-route-should-i-choose). The Procurement Journey is intended to support all levels of procurement activities and to help manage the expectations of stakeholders, customers and suppliers alike. It facilitates best practice and consistency across the public sector. The processes, templates and guides allow procurement professionals to concentrate on the higher value, higher risk areas in which they can add value and deliver value for money for the public purse. The main objectives of the Procurement Journey toolkit are:

* To provide a step-by-step guide to conducting a procurement exercise of moderate criticality and risk.
* To provide a set of guides and templates that can be used to collate and analyse the data required when conducting the procurement exercise.
* To standardise the public sector procurement process across organisations.
* To highlight the minimum legal and policy obligations involved at each stage of the process.

The route of Procurement Journey that will be followed is based around value and complexity and this will be advised by UPS.

**Adequate publicity**

The Public Contracts Scotland portal is used by the UPS team for all tendering activity. PCS was developed and is supported by the Scottish Government as a service and allows public sector organisations to post both OJEU and sub-threshold level contract opportunities. This is a service that is free of charge to both purchasers and suppliers and advertising on the portal fulfils the UoS’s obligations regarding adequate publicity and mandatory use of an electronic advertising portal.

In some instances, the requirement for adequate publicity is not applicable:

• Where advertisement would result in disproportionate costs to purchasers and/or suppliers (in particular for very low value contracts);

• Where the contract is to be awarded under an existing framework (e.g. mini competition)

• Where a single or sole source solution is the only practical solution.

**Tender Thresholds**

The current Procurement thresholds, are available on the Procurement Web pages under Procurement Guidance in the Quick Reference Guide.

<https://www.strath.ac.uk/procurement/procurementguidance/>

The total value must be taken into account when deciding which process is to be applied, including

* the actual value of goods or services,
* the time period,
* any additional costs for maintenance, lease finance and rental.

No attempt should be made to sub-divide the contract for the purpose of avoiding the correct procedure as this will breach the regulations concerning aggregation.

These thresholds stipulate the minimum number of offers which must be obtained. Good practice is to invite more offers where any of the following factors apply:

* There are many potential suppliers.
* Some companies may decline from bidding
* New suppliers entering the marketplace.

**4.4 Contracts/Framework Agreements**

A Contract is a legally binding agreement and will have some financial commitment or consideration. A Framework Agreement however has no obligation of volumes or spend against it until an additional Purchase Order is raised against the Framework which, at that point, creates the legally binding contract.

A wide variety of contracts and/or framework agreements for goods and services are available to all departments within UoS. These have either been established by UPS or are national agreements which the University has adopted. A full list of these agreements is contained with the Contracts Register and should be the initial point of reference for any new requirement.

<https://www.strath.ac.uk/procurement/whodoipurchasefrom/>

**Contracts**

UoS will use a Contract to award business where demand is known and able to be established and the figures are included into the Statement of Requirements Schedule in the Invitation To Tender. UoS will then “call off” their pre-advised demand via a Purchase Order.

UoS, acting for itself (or other Institutions in a collaboration) and the Supplier(s) will be the parties to the Contract, which will constitute, as a minimum, the Statement of Requirements, the completed Pricing Schedule, Monitoring Schedule, and Terms & Conditions, in addition to any other document referred to in the Contract award letter.

UoS will then form the legally binding Contract by accepting the successful tenderer(s) tender and detailing all the documentation forming the Contract in the award letter.

**Framework Agreements**

When seeking to establish a Framework Agreement, it is not necessary but would be beneficial to obtain up front guaranteed volume commitments to assist in assessing the scope and value of the commodity prior to commencing the procurement process.

The purpose of a Framework Agreement is to deliver a more efficient route to market for the Institutions and Suppliers, by minimising the resource required to complete compliant tendering exercises. Framework Agreements form the basis for Institutions to conduct further competition, where applicable, to select Contractors who can best supply to their individual specifications.

The main aims of the agreement are to enable the Institutions access to a legally compliant framework agreement which offers a broad choice of manufacturers, contractors or distributors for the provision of goods or services. This in turn enables individual institutions to have the ability to conduct further competition (a mini-competition) whilst maintaining a quick route to market in terms of the removal of the advertisement.

Where demand is unknown or estimated then UPS, following a tendering process, will place the successful tenderer(s) on a Framework Agreement and set down the arrangements for Institutions to create a purchase and sale relationship with the successful tenderer(s). Institutions formalise this arrangement by placing a Purchase Order.

UoS, acting for itself and, where applicable, on behalf of other Institutions and the Supplier(s) will be the parties to the Framework Agreement, which will constitute, as a minimum, the Statement of Requirements, the completed Pricing Schedule, Monitoring Schedule and Terms & Conditions, in addition to any other document referred to in the award letter.

UoS will accept the successful tenderer’s(s) tender and detail all the documentation forming the Framework Agreement in the award letter. The successful tenderer(s) is then only required to acknowledge receipt of the award letter and that the Framework Agreement has been awarded as set out in the award letter.

**Electronic Purchase Orders (PO) & Purchase Ordering Procedures**

Key information about a Contract or Framework Agreement, which may include the Pricing Schedule, Scope of Work, Terms & Conditions and a guidance document will be located on the UPS Contracts Register which can be found on the Procurement Website

When issuing a Purchase Order to a Supplier through the financial management system (FMS), the information which should be included as a minimum is:

* Description of the Goods/Service requirements;
* Deliverables and timescales;
* details of the premises to which the Goods/Services and Deliverables are to be supplied;
* the Charges including any discounts.

The UoS Terms and Conditions are automatically applied through the PO.

All official University orders must be raised on the eProcurement system.

**Mini Competition from a Framework**

A mini-competition must be issued to all applicable suppliers on the Framework or Lots where relevant. The mini-competition should not be issued to suppliers that are not on the Agreement.

The specific award criteria to be used by UoS for a mini-competition under this Framework should align to the same overarching criteria used to establish the Framework, i.e. Price and Quality.

Each proposal will be evaluated to determine who will be awarded the Call Off Contract. Call Off Contracts shall be awarded to the Supplier offering the Most Economically Advantageous Tender (MEAT) that meets the customised requirements of each Institution. When determining their requirements, UoS should consider using output specifications - defining what they want to achieve, and leaving the method of achieving it up to the Suppliers.

UoS should allow adequate time for suppliers to respond to their mini-competition, and accommodate for demo’s, site visits etc., if required.

**4.5 Procurement Authority, Tender & Award Sign off Process**

During any tender exercise, the following stages must be approved by the Head of Procurement or their Deputy, as delegated by the Chief Financial Officer in line with the University [schedule of delegated authority](https://www.strath.ac.uk/media/1newwebsite/universitycourt/Schedule_of_Delegated_Authority.pdf) before proceeding to the next stage in the procurement timetable:

* Profile & Contract Strategy & Procurement Timetable
* Award Recommendation
* Contract award letter to successful Tenderer
* Letters to Unsuccessful Tenderers

**Mandatory Consultation with the Head of Procurement**

All procurement over £25,000 is centralised through the Procurement Team. However, the Head of Procurement must be consulted, and agreement given in writing for the procurement to proceed, in the following circumstances:

* where Single Tender Action (or Single Source Justification) is proposed in the Commodity Strategy
* where an extension period is contemplated
* where the negotiated procedure is contemplated for a procurement under the Regulations
* where the need for the prescribed timescales to be reduced under the Procurement Regulations has been identified
* where the period for a Framework Agreement is required to exceed 4 years in duration
* where only one tender has been received
* where a tenderer is to be disqualified from the process on the grounds of non-agreement to UoS’s standard terms & conditions
* where no acceptable tender has been received following evaluation

**UPS Document Creation, Numbering and Headings**

All documents relating to procurement will follow a standardised tendering procedure which will provide ease of reference to key documentation and any internal/external audit with a transparent activity trail. To achieve this, a set of folders & templates have been created in which to keep the key documents from a tender process.

**Records Management and Audit Trail Provision**

Records management is recognised as a specific corporate function within the UoS and should receive the necessary levels of organisational support to ensure effectiveness. All records must be maintained in accordance with UoS and department records management procedures[,](http://www.strath.ac.uk/foi/recordsmanagement/,%20) which will be accessible for inspection by UoS auditors and any external auditors upon request.

Furthermore, the regulations stipulate mandatory record keeping and reporting requirements for the European Commission. This extends to include post award of a Contract or Framework Agreement and during management of the Contract or Framework Agreement itself **(e.g. Mini Competitions)**. The minimum levels of record keeping that must be undertaken to provide a full and accurate audit trail and enable UoS to demonstrate that it has been open and fair during its procurement activities include:

* content of Contract Notice/advertisement including date and where published;
* details of ESPD evaluation (criteria used, scores achieved, minimum pass scores), which suppliers were successful/unsuccessful, who was involved in the evaluation;
* content of invitation to tender and accompanying draft contract, specification, drawings, etc.,
* tender record information;
* details of tender evaluation (criteria used, scores achieved), which suppliers were successful/unsuccessful, who was involved in the evaluation;
* final contract details (content, correspondence, terms and conditions, etc.,);
* meeting minutes, general documentation, including the date of meeting and attendees etc.

**Documents must be retained as follows:**

|  |  |  |
| --- | --- | --- |
| **Document Type** | **Retention Requirement** | **To be Retained by** |
| Framework Agreements and Contracts, ESPD and tender documents of successful tenderer, tender evaluation, and award decision records, unsuccessful tender documents, general procurement correspondence, and all other documents required to provide an audit trail | Minimum 5 years after Framework Agreement/ Contract termination  (then subject to review for retention for a further 5 year period or destroy unless there is a Statutory requirement to retain longer) | All departments |

**Scottish Government Reporting**

The University Procurement is required to publish a contrast register on the University website which is publicly accessible and is required to produce an Annual Procurement Report as soon as is practically possible after each Academic Year-end. **4.6 Freedom of Information (Scotland) Act 2002 (FOI Act)**

The FOI Act is intended to ensure a culture of openness in public sector bodies and since January 2005 the public have had the right to access information held. This right of access is subject to certain strictly defined legal exemptions.

There are two exemptions in the FOI Act that are particularly relevant to procurement: the first covers disclosure that would be an actionable breach of confidence (i.e. someone would have the right to sue UoS successfully for breach of confidence if the information were disclosed). This is a complex area of law and legal advice should be sought if this is an issue. The second exemption covers information, the disclosure of which could substantially prejudice someone's commercial interests (including those of UoS and its Institutions).

This latter exemption is subject to a public interest test and even damaging information may have to be released in response to a request if there is a sufficiently compelling interest.

When conducting tendering exercises and entering into Contracts or Framework Agreements, Procurement Officers/Category Managers must:

* refuse to accept standard blanket confidentiality clauses with commercial third parties - they are unlikely to be enforceable and could breach the terms of the official Code of Practice for public sector bodies;
* refuse to include terms which purport to restrict the disclosure of information beyond the restrictions permitted in the Freedom of Information Act;
* refuse to hold information received from third parties in confidence if it is not confidential in nature;
* only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of UoS’s functions, which would not otherwise be provided;
* accept confidentiality provisions only if there are good reasons that are capable of being justified to the Scottish Information Commissioner;
* ensure anything which can be defined as a trade secret is included in a confidentiality clause; and
* be aware that commercial confidentiality may be time dependent and exemptions successfully applied at the time of awarding a Contract or Framework Agreement may well cease to apply at a later stage in the relationship.

Standard wording has been included in the ITT Instructions for Tenderers Schedule template to alert tenderers to UoS’s FOI Act responsibilities and inviting them to identify any information they would prefer that we did not release in the designated schedule in the Invitation to Tender. If UoS agrees to their designation, it can be reflected with appropriate clauses in the ensuing Contract or Framework Agreement.

**UPS Reporting and Reviewing Procedures**

In order to monitor and track the progress of each procurement against the project timetable, and to identify risks and mitigating actions, each the Procurement Team will review with their line manager a list of projects.

For particularly high risk, high value or contentious/innovative procurements, the Head of Procurement may decide, in addition to the above, to instigate a Gateway Review for a particular procurement. In summary, these are reviews carried out at key decision points by a team/person independent of the project team to provide assurance that the procurement can progress successfully to the next stage. Generally, Gateway Reviews can be applied to services, property/construction procurements, IT enabled business change, and procurements utilising Framework Agreements.

**Complaints & Dispute Resolution**

Incidences of complaint or dispute should be brought to the attention of the Head of Procurement – Fiona.hughes@strath.ac.uk

**Safety, Health & Wellbeing**

The Laws of the United Kingdom and the Statutory Rules of the University Court (the Health and Safety Policy and Code) impinge upon the purchase, delivery and use of certain goods and materials. UoS specific requirements as detailed within the following link should be considered as part of any requirement specification:

<https://www.strath.ac.uk/safetyhealthwellbeing/>

**4.7 Stores**

**Introductory Comment**

Holding an item in stock adds to its cost - but not to its value. Studies of inventory carrying costs have estimated that these can be approximately 25% per year as a percentage of average inventory for a typical organisation. It is therefore important that departmental stockholding procedures and systems are regularly reviewed to establish what items should be stored - particularly in relation to products which are liable to deteriorate or become obsolete.

**Responsibilities**

Departments are responsible for the management and operation of their stores and for controlling any stock in their care. There must be a clear separation of duties between staff engaged in:

* Procurement / checking receipt of goods.
* Authorising payment of Invoices.

**Record Systems**

Proper records must be maintained for all items held in stock. The system must clearly identify the following stock parameters:

**Information on Stock Held**

* Part Number
* Description
* Unit of Measure
* Location
* Quantity in Stock
* Unit Cost

**Information on Stock Transactions**

* The following details should be recorded:

**Goods Received/Goods Issued**

* Date of Receipt
* Source of Supply
* Issued To *(Consignee)*
* Goods Receipt Reference *(Purchase Order Number/Stock Transfer Number)*
* Goods Issue Reference *(Order Number/Returns Number/Charge Code)*
* Quantity Received
* Quantity Issued



**Physical Stocktaking**

All stock must be subject to a formal check at least once per annum - preferably at the Financial Year End. High value, hazardous, or critical supply items and any goods vulnerable to theft, should be checked more frequently.

Stocktaking should be carried out by at least two members of staff, one of whom should be independent of the stores function. A proper record of the stocktaking, including a summary report of the quantities and values of all items, must be compiled and retained for Audit and / or Finance Office purposes. Balances shown on the stock records must be adjusted to accord with the physical count, taking account of any losses, write-offs or other adjustments.

**Losses, Write-offs and Record Adjustments**

Loss may be defined as:

* Record keeping discrepancies.
* Physical loss arising from theft or fraud.
* Repairs to damaged stock.
* Deterioration due to fire, flood, contamination, evaporation.
* Obsolescence.

With the exception of theft (which would require a separate investigation and report) losses for which there are no prospect of recovery should be written-off as quickly as possible. The decision to make a write-off must be formally recorded and may only be sanctioned by staff with the necessary authority - e.g. Stock Control Clerk, with a countersignature by the Head of Department or senior member of staff.

The stock record balances must be updated immediately and cross-referenced to the relevant write-off report. Disposal of surplus or written-off stock, should be handled under Disposal of Assets procedures - see **Section 3.14**

**Storage, Security and Preservation of Stocks**

The member of staff in charge of the store is responsible for the security and safety of all goods, materials and equipment held, received or issued.

Precautions must be taken to safeguard contents against theft, fire, accident or climatic damage and arrangements must be in place as appropriate for:

* A high level of security for valuable or attractive items.
* Preventing unauthorised personnel from entering storage areas.
* Proper storage of special category goods such as paper, film, flammable or combustible materials, liquids and gases and radioactive substances.
* Relevant Fire and Safety signs to be clearly displayed.
* The provision of First Aid boxes suitably equipped to deal with the types of materials held in the store.
* Stores staff to be familiar with all Health and Safety Regulations applicable to their place of work.

Most items require some form of protection to preserve their condition and this is normally introduced at the time of manufacture or dispatch by the supplier. Wherever possible, such packaging should remain intact until the item is brought into use.

**4.8 Disposal of Assets**

**General**

All asset disposals must be recorded in the University Asset Register which is held by Finance. Please seek agreement from the **Finance Business Partner** who services your faculty or department. Where goods or equipment have reached the end of their useful life the following factors should be considered:

* Are they of use or value to another department?
* What is the maximum residual value which can be achieved?
* From whom and by which method should offers be sought?

**Items of Low to Medium Original Value**

Ensure that any recovery is not disproportionate to the costs of disposal. If the equipment can be utilised by another department, a value should be agreed and a journal entry made via the finance office to transfer the sum between budgets. Where uncertainty exists over the probable usefulness of redundant equipment to another department:

* Establish the probable value of the item in question. (An approximate value for surplus computer hardware, for instance, can be obtained from Information Services.)
* Advertise the sale in PRISM and within the department stating that sealed bids should be submitted by a closing date and time and that all goods will be sold as seen with no warranty given or implied. Any companies known to have an interest in purchasing redundant equipment of the type in question should also be notified and invited to submit bids.
* Appoint at least 2 persons to witness the opening, scrutiny and acceptance of offers. If the highest bid is not accepted, the reasons should be recorded.
* Arrange with Finance Office for a University Invoice to be raised against the purchaser on payment of which, the goods may be uplifted.

**Note:** Where an asset disposal results in the goods leaving the University, the sale is subject to VAT which must be included in the bid value. This will ensure that when VAT is subsequently deducted by the Finance Office, the original ex-VAT bid amount is credited to the respective budget.

* In the event that no satisfactory offers are received, the goods may be scrapped or donated to an outlet of choice.
* All recipients of sold or donated goods should be issued with a Sold Note. A copy of this can be found on the university website.
* A record should be kept within the department of the procedures adopted and the outcomes for future audit purposes. This is important where sales attempts have been unsuccessful.

**Items of High Original Value**

The disposal of high value items requires competitive offers to be obtained. There are several means by which this may be achieved:

* Advertising the sale to other HE Institutions.
* Inviting written offers from suppliers
* Submitting the item for auction.

The following factors should be stated in invitations to bid:

* offers are invited and accepted on the University's terms;
* no warranties are offered;
* no post-sale liabilities will be accepted by the department or the University;
* the goods will only be released on full payment of the sum due;
* the purchaser is wholly responsible for the uplift, at their own expense, of the item in question.

The Sold Note is designed to address these issues and protect the University at the time of sale. It is recommended that its existence and contents be drawn to the attention of all potential bidders in the first instance.

There may be a requirement to identify and ensure strict compliance with Health and Safety Legislation, particularly in relation to hazardous materials and to instances where the purchaser requires labour to uplift large or heavy equipment.

A minimum of three independent offers should be invited in the form of sealed bids to be submitted by a specified closing date and time and thereafter, the procedures previously detailed should be followed.

It is important with high value items that proper records are kept within the department of the sale process and outcome, including:

* The number of offers received
* The sums offered by the respective bidders
* The decisions taken
* The reasons for any anomalies.

In the event that no satisfactory offers are received and goods are to be scrapped or donated, evidence should be kept for audit purposes that a realistic attempt was made to obtain the maximum financial return. This could for example include suitable online comparisons or approaches to auction houses.

Competitive offers for scrap should be obtained for any item if the anticipated scrap value exceeds £500.

**4.9 Accountability**

**Background**

The university is subject to reporting duties to demonstrate compliance, transparency, efficiency and that VFM is obtained from all procurement activity. In UoS, regulated Procurement activity is fully centralised, therefore effective communications must be maintained with departments to enable Procurement to be carried out efficiently.:

**Nomination of a suitable person to coordinate departmental Procurement with UPS is recommended. Larger departments may consider it necessary to nominate more than one person and appoint a Coordinator for each Division or Section.**

**Financial Authority**

Under the University's Financial System, budgetary responsibility and control is devolved via Deans of Faculties to Heads of Departments who may appoint delegated budget holders. The rules and regulations applicable to financial matters are contained within official documents issued by Finance Office:

**Authority to Purchase**

Where Heads of Departments have delegated their authority to purchase, to a member of staff***,*** the following points must be considered:

* Accountability and responsibility should be explicitly defined and not informally understood.
* The budgets against which they may commit expenditure must be clearly identified.
* The level of the delegation should be appropriate to the risks involved.
* All staff granted authority to carry out departmental Purchasing/ order placement should be made aware of the contents of this Manual and their responsibility to comply with the University's policies, procedures and guidelines.

**Placement of orders**

Before placing an order with a supplier, it is the purchaser's responsibility to:

* ensure that sufficient funds are available within the respective Budget to meet the cost of the intended purchase in full.
* ensure that University Frameworks or the appropriate Tender or Quotation procedures detailed in Section 3.3 have been followed correctly.
* ensure that full compliance has been made with any Health and Safety requirements or other appropriate Legislation.
* ensure that reference has been made to UPS if expenditure exceeds £25,000

**The Duties of the Departmental Purchasing Co-ordinator (PC)**

The departmental PC will also:

* Take receipt of Procurement information and updates from UPS including local, National and Regional Contracts with Recommended Suppliers and ensure this is communicated to appropriate staff within the department.
* Provide feedback to UPS and inform them of any problems or difficulties particularly with Recommended Suppliers and Agreements.
* Maintain an overview and, where appropriate, a level of influence over their department's Procurement based on knowledge gathered through liaison and working experience.

**Invoice Procedures**

The purchaser or the originator of the order has a responsibility to ensure that departmental aspects of the payment process have been carried out promptly and in accordance with the terms of the contract agreed when the order was placed. The UoS's procedures, detailed below, reflect good practice and the "fundamental requirement" of both Internal Audit and of the National Audit Office that the authorisation to pay an invoice should be made by a person other than the originator of the order to ensure clear segregation of duties.

**Training in Procurement**

Procurement can be a complex task which carries commercial risk for the inexperienced person. Best VFM may only be obtained through application of best practice and it is important that all staff who are authorised to place orders are aware of the pitfalls and what constitutes good procurement practice. UPS will:

* Provide Procurement awareness training
* Single Source Justification Training
* Enable purchasers to deal with suppliers and contracts manner which benefits the University and minimises commercial risk.

**The Need for Training**

UPS staff are qualified and experienced personnel who attend training on a regular basis as part of their continuous professional development (CPD). At departmental level it is recognised by UPS that the procurement of goods or services forms only part of the individual's workload and responsibility. This does not, however, reduce the importance of ensuring goods, works and services are procured in a complaint and transparent manner through the UPS.

# CORPORATE SOCIAL RESPONSIBILITY (“CSR”)

**Introduction**

**There is the potential for significant environmental and/or social impact to occur in procurement chains and this can sometimes be reduced through carefully constructed Procurement strategies.**

UoS can play a key role in furthering sustainable development through its procurement of Services. The UK Government Sustainable Development Strategy, published in March 2005, committed the public sector to lead by example in delivering those objectives and defined sustainable development in broad social, environmental and economic terms. The term sustainable procurement, therefore, encompasses all issues where procurement is seen as having a role in delivering economic, social and environmental policy objectives.

There are a number of social impact areas where public procurement is seen as a lever to sustainability. There is a difficult balance between having an effect upon such social issues and failing to treat all suppliers in an equal and fair manner. If it is considered that a particular procurement initiative has a strong potential to influence such social issues, then the UPS member must obtain advice from The Head of Procurement to ensure that this balance has been achieved.

**Implementing CSR into the Procurement Process**

The principles to which UoS have committed have been translated into the procurement cycle via standard templates and evaluation matrices. Activity will also be measured as part of the process to manage Contracts and Framework Agreements by the UPS member. The Toolkit and templates must not be modified without the agreement of the Head of Procurement, presented by one of the UPS team.

The following key areas will be determined by UPS member, on a procurement by procurement basis, to ensure they are fit for purpose.

**Profile & Commodity Strategy**

Where Services are being purchased, a detailed examination of the needs of the Institution should be undertaken. The principal responsibility lies with the UPS member to ensure that the Statement of Requirements is compliant from the outset.

**Access to Tender Opportunities**

In order to promote equality of opportunity in tendering, reasonable steps must be taken to ensure that there is suitable visibility of tenders that are currently available. Not advertising requirements is likely to be seen as a potential breach of equality and/or human rights legislation. UoS will advertise all procurement requirements and other relevant requirements on the Public Contracts Scotland Portal.

**Pre-Qualification Questionnaire/Invitation To Tender**

There is a need to make an assessment of a tenderer’s basic performance of compliance with equality and human rights legislation. In this respect the obligations could extend to almost all suppliers and failure to take reasonable steps to identify if any relevant tenderer has contravened the law or to use a tenderer or Supplier who has contravened the law, places UoS at risk of not fulfilling its obligations under such legislation. If a UPS member has identified an issue in relation to compliance with relevant legislation that the tenderer has breached and UoS is not in possession of a credible proof of remedy but is still using the particular tenderer, then UoS could be failing in its obligations under such legislation. Relevant questions have been incorporated into the Scottish European Single Procurement Document (SESPD).

#### 

**Standard Terms & Conditions**

These include relevant equality clauses.

**Monitoring Contracts and Framework Agreements**

The responsibility for monitoring and enforcing Contracts and Framework Agreements that are equality relevant will be the responsibility of the UPS member in conjunction where relevant with UIG members and the Supplier(s), conducted as part of management of the Contract or Framework Agreement and supplier management.

Given the potential liabilities for breaching environmental, equality or human rights legislation are such that the UoS has to demonstrate that they have applied due regard to their obligations under the legislation and taken steps to embed it into their procedures and processes; it is not optional. Embedding these obligations into the template documents in this way will both assist in providing a consistent approach by UPS to the requirements of relevant legislation and objectives of corporate responsibility, potentially reducing UoS’s exposure to risks of challenge.

Note that a tenderer or Supplier which UoS purchases from which are themselves public bodies are generally directly bound by the same legislation as UoS. Checking them for compliance under such legislation from a Procurement perspective therefore is not in theory required (although UPS will need to be confident that they are applying comparable standards).

Note also that if a tenderer or Supplier is in face-to-face or verbal contact with UoS’s staff, its Institutions or members of the public in the vicinity of its or the Institutions’ sites, the conduct of their staff is relevant so far as UoS’s responsibility under equality legislation is concerned. UPS must apply due regard to making appropriate arrangements to ensure that the Supplier has the capability and has introduced policies, documentation and training etc to ensure that the staff delivering the Service are aware of their obligations under such legislation and do nothing that breaches it in any way.

The above outline should be viewed as the minimum requirements to comply with the law. It is not a comprehensive explanation of the legislation.

* 2. **Sustainable Procurement**

**The University Of Strathclyde acknowledges that its procurement activities have a significant impact on the environment, society and the economy. As part of the HE sector, the University also accepts it has a more global impact on sustainability and recognises it has a responsibility to reduce those impacts. Further details are available at the following link:**

<https://www.strath.ac.uk/procurement/>

Under Social Economic Impact & Community Benefits and Sustainable Procurement Strategy.

**The Buyer's Responsibilities**

At each stage of the Procurement process the buyer should consider the effects of the acquisition on the Environment and evaluate these as part of the route towards making the final decision. The more common factors and principles associated with Environmentally Friendly Procurement include:

* The environmental consequences of using a particular supplier.
* The materials involved and any manufacturing processes which generate excessive waste.
* The lifetime cost of ownership and overall VFM of the commodity. Low priced products may be of poorer quality, implying early failure, higher consumption rates and consequent increases in wastage and disposal factors.
* The ability for the product to be recycled and/or the disposal arrangements likely to be required when it reaches the end of its useful operating life.
* The amount and type of packaging material and the disposal arrangements required.
* The consumption of non-renewable natural resources associated with the product and the use to which it will be put: scarce timber; inefficient use of fuel or energy.
* The need to minimise the use of throw-away dispensers by using refillable trigger sprays instead of aerosol containers.
* Outlaw the use of CFC and other ozone-depleting substances and propellants.
* Energy consumption and efficiency of the product when in use.
* The extent and nature of emissions from the equipment or product under conditions of normal use and under situations of abuse.
* Making the important distinction between Recycled and Environmentally Friendly products. The terms are different and instances have been discovered where the manufacture of a recycled product had an adverse environmental impact.

**Promoting and Developing Environmental Issues with Suppliers**

All major contracts undertaken by UPS now incorporate: -

* An unequivocal instruction to potential bidders that they must provide details of their current Environmental Policy as part of their submission.
* Relevant environmental considerations within the list of evaluation criteria.

This gives a clear signal to the supplier that environmental aspects will feature prominently within the decision-making process and acts as a disincentive to suppliers who apply premiums associated with the environmental supply chain. All purchasers within the University should consider adopting these tactics when obtaining goods or services.

VFM is the prime objective within all procurement activity and this can usually be obtained without sacrificing environmental considerations. To do so requires the exercise of care when evaluating bids to ensure that testimonies being made by suppliers regarding their environmental credentials, performance and products are correct and relevant to the goods or services being obtained.

The purchaser must also be satisfied that no excessive price loading is being applied. Certain commodities and supply areas are environmentally friendly and recycled products are standard. Any attempt by a supplier to impose a "Green" premium should be challenged and an explanation requested.

**Other areas to consider**

In the Contract Strategy and tender documentation, the following options for reducing environmental impact could be considered:

* compliance with environmental legislation such as import restrictions, restrictions on the use of certain materials, labelling requirements on goods;
* specific environmental objectives and targets such as energy efficiency of new buildings and equipment;
* ensuring that the technical capability to meet environmental impact minimisation aspects within projects is demonstrated;
* considering the environmental impact over the whole procurement chain (in order to avoid ‘exporting’ environmental problems to less developed countries);
* ensuring that goods are procured or manufactured from renewable resources or from recycled materials;
* ensuring that goods with reduced packaging, lower use of consumables during their operating life or reduced ‘end of life’ disposal problems are procured.

As with social issues, however, there is a balance between these options and the overall need for UoS to achieve value for money in procurement. If in doubt, the UPS team member must seek the advice from the Category Manager or Head of Procurement.

The scope to take account of environmental and sustainability issues is restricted to a strict set of circumstances in line with UK policy and EU rules. In addition, under the Regulations the requirement must be:

* relevant to the subject matter of the Contract or Framework Agreement;
* non-discriminatory and transparent;
* consistent with the criteria allowed at each stage of the process (this means that environmental or sustainable procurement objectives should be taken into account as early as possible in the procurement process, i.e. in the Commodity Strategy); and
* tested critically for cost effectiveness, efficiency and affordability.

In essence, any environmental/sustainability questions asked of tenderers have to be demonstrably relevant to the subject matter of the Contract or Framework Agreement.

# Small Medium Enterprises (SMEs)

Wherever possible, and consistent with the need to secure VFM, suitably qualified SMEs (business with less than 250 employees) should have the opportunity to bid for UoS Contracts and Framework Agreements. It is recognised that SMEs can offer benefits in a contractual relationship by offering lower costs and lower overheads, flexibility, innovation, specialisms/niche services, increased service (since the Contract or Framework Agreement will often represent a high proportion of overall turnover to the SME so they value that business more). Removing barriers to participation, improving access to tendering opportunities and information can also assist in improving VFM by increasing competition.

Summary of the key points:

* consider scope and packaging of requirements to reduce the barriers to SME participation e.g. Framework Agreements, sub-contracting opportunities, sub-division into lots etc
* consider payment terms
* consider alternative payment methods e.g. payment cards etc
* advertise widely
* use documentation written in Plain English
* set a realistic tendering timeframe
* assess SMEs’ risks so they are not automatically ruled out of the process (especially relevant for new or business start-ups when audited accounts and a track record don’t exist)
* offer debriefing

## 6.1 Supported Businesses

**Social Economy Businesses**

These comprise voluntary and communi**t**y organisations that use a business approach to delivering goods and services

**Social Enterprise Businesses – key points for consideration**

**Social enterprises are dynamic businesses with a social purpose. They have social aims, trade in competitive markets, and reinvest their profits for community benefit.**

The sector is diverse and includes cooperatives, credit unions, housing associations, community development trusts, social firms and community businesses. Social enterprises also operate across a wide range of industries including growth sectors such as recycling, renewable energy and social care. There is no single legal form used by social enterprises. Some incorporate as companies and may or may not also take charitable status, while others form as Industrial and Provident Societies. In 2005 a new legal form came in to being – the first for more than 100 years - the Community Interest Company is a bespoke company form designed for social enterprises with a built-in asset lock.

The Social Enterprise Scotland is a collective voice for social enterprise in Scotland. They are a membership-led organisation, representing the needs and views of a wide range of social enterprises, emerging social enterprises, their networks and trade bodies.

Social enterprises address the needs of accessible rural areas by:

* halting and reversing economic decline by providing local employment opportunities and generating sustainable, local economic growth
* providing innovative, enterprising solutions to the challenges of local service delivery
* enabling community-led regeneration and renewal

Social enterprises combine economic, social and environmental objectives in such a way that they have the power to transform communities. However, their potential is currently under-exploited and a series of barriers to their development need to be tackled. Accessible rural areas could see their fortunes reversed if social enterprise models were fully promoted and supported with the right kind of policy and investment.

## 6.2 Fair Trade and Ethical Trading

Fairtrade schemes aim to improve the conditions faced by small producers and workers in developing countries, and the term “fair trade” covers a range of activities aimed at helping these individuals. An important objective is to help excluded and disadvantaged producers, including independent small farmers, to access international markets and receive a fair price for their products. Other objectives are to encourage traders to buy as directly as possible from producer groups and to develop long-term relationships, ensure transparency of supply chains, and the empowerment of producer groups and workers. Another vital goal is to ensure decent working conditions and fair wages for workers on plantations and in factories.

The Fairtrade Foundation awards a consumer label – the Fairtrade Mark. This mark demonstrates that internationally recognised standards of fair trade have been met. Items covered by the Mark include coffee, tea, chocolate, bananas and honey products.

UoS’s policy is that all public procurement of goods, works and services is to be based on VFM, having due regard to propriety and regularity. In addition, the EC Treaty principles of non-discrimination, transparency, and equal treatment apply.

* 1. Considerations:
  2. Specifications cannot be framed in terms of fair or ethically traded requirements, as such “social” labels do not define the end product in terms of characteristics or performance as required by the Procurement Regulations. However, advertisements and invitation to tender documents can make it clear that fair trade options can be included in the products provided to meet requirements
  3. Invitation to Tenders can make it clear that, where the winning tenderer is able to provide fair trade options, such products should be made available, as required, for internal meetings, conferences and hospitality purposes
  4. In referring to the possible inclusion of fair trade options, specific marks or trade names should be avoided. It can however, be pointed out that, where tenderers do offer fair trade options, the Fairtrade Mark or equivalent is a helpful way of demonstrating that fair trade standards are being met
  5. Contracts and Framework Agreements must be awarded on the basis of either lowest price or most economically advantageous tender (MEAT) for the whole requirement, regardless of whether fair trade options have been included. Quality aspects, as well as price, will be relevant. A tender cannot be rejected or considered non-compliant simply because it does not include any desired fair trade options

1. In all cases, UoS needs to be clear that it is meeting all its Institutions needs in a way which makes efficient and effective use of public expenditure and which delivers VFM for the taxpayer.

There is scope within the Procurement Regulations to encourage, in non-discriminatory advertisements and specifications, the inclusion of fair trade options in tenders where applicable. However, Statement of Requirements cannot be framed in terms of fair-trade requirements, as such social labels are not permitted under THE rules.

## 6.3 Reserved Contracts

It is Government policy to, as far as possible, give people who are recognised as disabled within the meaning of the Disability Discrimination Act 1995 the opportunity to enter the labour market. Public funds should be spent in a way that supports this objective wherever practical. One route is by restricting participation in a tendering exercise to supported factories and businesses (companies with more than 50% of their workers being disabled persons who by reason of the nature or severity of their disability are unable to take up work in the open labour market). This Reserved Contracts process is expressly permitted under the Public Contracts (Scotland) Regulations 2015. The use of supported factories and businesses contributes towards meeting public bodies’ Corporate Social Responsibility objectives.

By indicating in the advert (the OJEU notice) that a particular contract is “reserved for sheltered workshops under Article 19 of the Directive” only organisations with more than 50% disabled employees (from anywhere within the EU) can bid for that contract.

Public bodies seeking to award a contract which has an anticipated value below the relevant threshold at which the Regulations apply should still consider whether the requirement is one where participation in the competition could be restricted to supported factories and businesses. In circumstances where it is deemed appropriate to do so, public bodies are encouraged to “reserve” participation to supported factories and businesses only. As with contracts above the threshold, the advertisement for the requirement should clearly identify it as being “reserved”. The requirement has to be advertised adequately and appropriately and competed in accordance with usual procurement rules. It cannot be limited to particular supported businesses and factories or to those who are locally based.

An indication of the types of goods and services provided by supported factories and businesses can be found on the Supported Business Directory website at:

<https://www.base-uk.org/knowledge/scottish-supported-business-directory>

## 6.4 Community Benefits Clauses

“Community Benefit” clauses are contractual requirements which deliver wider social benefit in addition to the core purpose of the contract, in particular, requirements in relation to targeting training and employment outcomes.

Public procurement projects can impact on training, employment and investment in a local community and its longer-term regeneration. The importance of linking regeneration spend to opportunities for disadvantaged communities is clearly stated in the Scottish Government’s Regeneration Policy Statement.

UoS requires that all procurements must always be carried out on the basis of achieving value for money. Therefore, Community Benefit clauses need to be carefully considered to ensure that they meet the requirements of the procurement rules and general EU law. In particular, care should be taken to ensure that clauses do not cause either direct or indirect discrimination. If in doubt, please refer to Head of Procurement for advice.

The following considerations should be borne in mind with relation to use of community benefits clauses in contracts:

* check legal and subsequently policy justifications;
  + 1. all procurement of goods and services should achieve Value for Money, having due regard to propriety and regularity (the cost of incorporating community benefit clauses will vary with the requirements);
* contract suitability and capacity need to be addressed on a case-by-case basis;
* key components which together indicate the appropriate targeted recruitment and training (TR&T) clauses which can be used in a particular case must be linked. Such components include employment planning, industry capacity, funding, as well as possible routeways for employment support and training providers to facilitate achievement of targeted recruitment and training (TR&T) clauses;
* responsibility for the whole process, including implementation and monitoring, needs to be clearly set in advance;
* community benefit clauses must be mentioned in any OJEU notice by a contracting authority and throughout the procurement process;
* community benefit clauses need to have a direct link to the core purpose of the contract, in order that they can be included in the technical assessment of potential Suppliers and in award of the contract;
* to avoid any form of discrimination, including indirect discrimination, the wording of community benefit clauses needs to emphasise ‘social inclusion characteristics’ and cannot be aimed specifically at employing people from a certain locality, of a certain age or sex, etc. Targeted training is permissible;
* indirect discrimination, to the disadvantage of non-local Suppliers, must be avoided;
* monitoring of contract deliverables and outcomes to ensure compliance.

Community Benefits should be considered in the Commodity Strategy, and text inserted in the ITT’s Statement of Requirements where applicable.

* 1. **6.5 Race Equality Procurement Guidance**

**Implementing Race Equality into the Procurement Process**

UoS is committed to meeting its duties under the Race Relations (Amendment) Act 2000. UPS takes a proactive approach to ensure equality is considered at all stages of the procurement process by ensuring staff are trained on equality and diversity with translation into the procurement cycle in the key areas detailed below:

* **Profile & Commodity Strategy**

The principal responsibility lies with the UPS to ensure that an equality impact assessment is undertaken to determine whether race equality is a core requirement in any contract or framework agreement for goods, services, or works. Community Benefits are incorporated into large scale tenders which aims to maximise opportunities for SME’s and Social Enterprises.

* **Pre Qualification Questionnaire**

A pre-qualification questionnaire which includes equality questions is used to assess the supplier’s compliance with legislation and to review the vendor’s track record in relation to equality and diversity

* **Standard Terms & Conditions**

These include relevant equality clauses. The conditions of contract for the Purchase of goods and services have been recently updated to include a clear statement on the requirements of Suppliers/Contractors regarding the Equality Act 2010 and the need to ensure that these requirements are disseminated down to both their employees and sub-contractors.

* **Monitoring Contracts and Framework Agreements**

The responsibility for monitoring and enforcing Contracts and Framework Agreements that are equality relevant will be the responsibility of the UPS in conjunction with UIG members and the Supplier(s), conducted as part of management of the Contract or Framework Agreement and supplier management.

**Appendix 1**

**Definitions and Abbreviations**

Definitions are provided during the course of the Manual, generally at the point when a term is used for the first time. Some definitions are particularly important and are listed below for convenience:

**“Procurement”** - Procurement is a wider term than purchasing; it is usually taken to embrace activities prior to the establishment of a purchase contract. For example, it includes:

- Identification of a need.

- Sourcing (i.e. identifying and evaluating potential suppliers).

- Post-contract activities (contract management & management of supplier relationships).

**“Purchasing”** - the functions associated with buying the goods and services required by an organisation.

**“UoS”** – means the University of Strathclyde is established by Royal Charter dated 14th August 1964 and registered as a charity in Scotland number SC015263.

**“Supplier”** means the party contracting with UoS and identified in the Contract Award Letter

**“Procurement Regulations”** – means Public Contracts (Scotland) Regulations 2015 (as amended) and The Procurement Reform (Scotland) Act 2014 (as amended)

**“The Threshold”** – means the procurement value above which the Regulations apply

**“Institution”** – means a Scottish university or college (and any affiliated body)

**“Non-EU Procurement”** – means a procurement below the EU Threshold **and** procurement above this level that is exempted from the ‘full’ EU Regulations

**“Procurement team member –** meansa member of the UPS team within UoS who has responsibility for leading and managing the procurement process for a particular category, and for monitoring supplier performance.

1. **“Purchase Order”** means the document used by UoS acting for itself or an Institution to “draw down” from a Contract which incorporates the terms and conditions set out in the Contract “Service” or “Services” – in this Manual, for convenience, this means goods or services or consultancies, as appropriate
2. **“User Intelligence Group” and “UIG”** – a group of people from Institutions and other interested parties with a requirement for or specialist input in specific goods and services, who work with the UPS team during and after the procurement process
3. **“Value for Money” and “VFM”** - **means** the optimum combination of whole life costs and quality (or fitness for purpose) to meet Institutions’ requirements

**Buyers guide** - A document produced by the contracting authority which provides an overview of the agreement that has been let and guidance on how institutions can access and use the agreement.

**“Contract”** – means the Contract concluded between UoS and the Supplier, formed by the Contract Award Letter and the documents referred to in the Contract Award Letter or by the Purchase Order.

**Framework agreement -** A framework agreement can be described as ‘a general term for agreements with providers which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement’.

**Call-off contract -** The call–off contract is the legally binding contract between the institution and the framework supplier which defines the goods/services to be provided.

**Mini-competition -** Further or mini-competition is the term used to describe one of the processes for selecting a supplier on a framework agreement to place a call-off contract with. The terms ‘further’ and ‘mini’ are used interchangeably, and within this document, we refer to ‘mini-competition’.

**Standstill period** - A mandatory period applied to the end of a contracting process, prior to contract award.

**Thresholds** – Financial levels set by the EU which determine the procurement route that should be followed.

**Ineffectiveness order -** A remedy that could be applied if found to have awarded a call-off contract in breach of the terms of the Framework.

**Voluntary Standstill** - A voluntary process an institution may choose to follow for an above EU threshold call off, and which reduces the remedies available should a legal challenge be brought. You may choose as a default position to apply a voluntary standstill period to a mini-competition of above EU threshold under a Framework Agreement to which the Remedies Directive applies to reduce the risk of ineffectiveness applying. You may be in breach of the regulations if you choose to use a brand name or brand specific description of goods that restricts competition at ITQ stage. You are advised to use a functional (output) specification wherever possible.

**Values** – All values referred to regarding quotation and tendering thresholds are exclusive of VAT.

**Appendix 2**

