

Procurement Policy

Policy Number	FCP2.19
Version Number	6
Status	Approved
Approval date: First Version	1 December 2016
Approval date: Second Version	19 February 2018
Approval date: Third Version	14 January 2019
Approval date: Current Version	7 June 2022
Ratified by: Current Version	Chief Financial Officer
Responsible for policy:	Head of Procurement
Responsible for implementation:	All Staff
Date of last review:	3 June 2021
Date of next review:	2 June 2027

Equality Impact Assessed

Initially 16 November 2016, reviewed 27
April 2020

Document Change History

Document Version	Section (No. or Heading)	Description of change(s)	Date of change
6	Coversheet & Footer 2.8 4.5 & 4.6 4.13 6.1	Policy to be reviewed in 5 years rather than annually, subject to any required updates from organisational or regulatory changes. Purchasing Authority limit increased from £3k to £5k excluding VAT. Quotation value increased from £3k to £5K. Project reviews for all over £50k projects " <i>to be considered</i> " rather than "must be carried out". " <i>Fife-based</i> " added to supplier improvements list	07.06.22
5	3.3 4.3 4.9 4.10 7.2 Associated Docs All	Paragraph added to confirm no change to processes following Brexit. European Single Procurement Document changed to Single Procurement Document. Updated SSJ hyperlink to MyFife page. Added "once reviewed and endorsed by the Director of Finance and APUC" to NCA process. Updated code of conduct link to MyFife page. Procedures Manual location changed from Gateway to MyFife. Head of Finance changed to Director of Finance.	03.06.21
4	All	Job title changed from Procurement Manager to Head of Procurement. Hyperlinks to documents updated. 4.4 & 4.5 - £25k excluding VAT corrected to £20k excluding VAT.	27.04.20
3	All	Full review – Job titles updated and minor amendments made to wording and formatting.	10.01.19
2	All	Full review – minor amendments made Minor wording changes and title changes. Clarity over roles with approval to authorise spend and award contracts.	05.12.17
1	N/A	N/A	N/A

Contents

1 Introduction	4
2 Responsibilities	4
3 Legal Framework	6
4 Competition	8
5 Value for Money	10
6 Sustainability	10
7 Ethical Standards	11
Associated Documents	11

1 Introduction

- 1.1 The Fife College Procurement Policy reflects good purchasing practices and should be read in conjunction with the [Scottish Procurement Policy Handbook](#) (currently under review) together with the latest Scottish Procurement policy advice and legislation, which is mandatory for all Scottish public sector organisations to follow.
- 1.2 The Fife College Procurement Policy applies to all purchases, i.e. goods, services (including consultants, advisers and external research) and works. It applies to purchases funded from both capital and revenue and also to goods and services supplied through hire/lease. It is mandatory that the policy is followed by everyone involved in the procurement process, whether as end-user/customer, purchaser, project team member, budget manager or contract manager.
- 1.3 The Policy is designed to ensure that all Fife College procurement activity is focussed on the delivery of value for money conducted to high professional standards and to the relevant legal requirements.

2 Responsibilities

([Scottish Procurement Policy Handbook Section 3 - Procurement Organisation and Governance](#))

Fife College

- 2.1 After the reclassification by ONS on 1 April 2014, Fife College is officially a public sector body and as such must follow all relevant Public Procurement law as a Contracting Authority. Public procurement is governed by principles and rules that Contracting Authorities must follow at all times.

The Head of Procurement

- 2.2 The Head of Procurement is responsible for determining best practice purchasing arrangements (including governance & compliance) and for establishing and maintaining procurement standards across the College in agreement with the Director of Finance, Chief Financial Officer and the Board of Governors. The Head of Procurement is also responsible for managing Purchasing activity across the College and ensuring that appropriate training and support is provided.

Purchasing Authority

([Scottish Procurement Policy Handbook Section 15 - Business Processes](#))

- 2.3 Purchasing Authority is the authority to enter into a legally binding contract, for goods, services or works, on behalf of Fife College. It covers all purchasing commitments, including variations to and extensions of contracts.

- 2.4 Purchasing Authority is required to commit the College to the contract, where there is no existing Fife College contract and for running mini or further competitions against authorised framework agreements. Purchasing Authority is managed by the Board of Governors.
- 2.5 The only staff roles with Purchasing Authority to award Contracts on behalf of the College are the Principal, Vice Principals and Chief Officers.
- 2.6 Purchasing Authority is personal to the individual in their current role and does not automatically transfer to their successor should they leave their current post nor does it transfer with them to another post.
- 2.7 Purchasing Authority is not:
- to be confused with Budget Management and Control as set out in the College Financial Regulations
 - the authority to approve a Non-Competitive Action (Single Source Justification)
- 2.8 Purchasing Authority is not required for:
- purchases below £5,000 (excluding VAT)
 - placing orders under current contracts or single supplier framework agreements that have been let or signed up to by the Fife College
 - payment of rates bills
 - subscriptions or membership fees
 - attendance at training, seminars, conferences etc.
 - travel, expenses or hospitality
 - payroll costs and associated statutory obligations e.g. NI, PAYE, pension contributions

Separation of Duties

(Scottish Procurement Policy Handbook Section 15 - Business Processes)

- 2.9 It is Fife College policy that separation of duties is maintained at all times in order to protect staff concerned from accusations of impropriety. There are two separate defined roles in the procurement process:

The Budget Manager/Customer

- 2.10 This role defines the need and ensures all necessary approvals are in place, including the requisition and appropriate funding to meet contractual requirements. Other key responsibilities of this role, whether carried out directly or delegated to a member of staff, include developing a specification, participating in bid evaluation, ensuring all Purchase Orders are raised and taking forward Contractor Performance Management responsibilities.

The Purchaser

- 2.11 The purchaser is responsible for ensuring that the procurement process is appropriate, applied fairly and fully complies with the procurement policy and legal obligations. Key elements of the purchaser's role include: undertaking effective market research, developing an appropriate procurement strategy, leading the procurement process, evaluating the commercial and pricing aspects, awarding the contract and de-briefing suppliers.
- 2.12 Purchasers should not:
- be responsible for any financial approvals connected with contracts that they have committed to,
 - be an approver on the TechOne purchasing system for any purchase from a contract they have awarded.

Procurement Strategy

- 2.13 It is Fife College policy that a formal procurement strategy is required for any complex or high risk requirements, and all those with a value in excess of £50,000 (excluding VAT), unless the required goods or services can be sourced from existing single supplier Call-off Contracts or Framework Agreements.

3 Legal Framework

[\(Scottish Procurement Policy Handbook Section 4 - Legal Framework\)](#)

- 3.1 Fife College procurement is governed by a framework of rules including:
- Treaty on the Functioning of the European Union (EU Treaty) – fundamental principles of transparency, equal treatment, non-discrimination, proportionality and mutual recognition apply to all Fife College procurements, regardless of whether the full EU procurement rules apply.
 - EU Procurement Directives - EC Procurement Directive 2004/18/EC provides detailed procedural rules that the College must comply with when procuring and awarding contracts above EU financial threshold. Directive is given effect into Scots law by the Public Contracts (Scotland) Regulations 2015.
 - The Public Contracts (Scotland) Regulations 2015 – these regulations apply to Fife College procurement when the estimated value of the contract equals or exceeds the current EU financial threshold. They impose minimum procurement standards that must be followed at all times.
 - Procurement Reform (Scotland) Act 2014 - these regulations apply to Fife College procurement when the estimated value of the contract equals or exceeds £50,000 (excluding VAT).
 - European Court of Justice and national case law as published.
- 3.2 The legal framework is not static and therefore Fife College policy will evolve through new and amended legislation, European Commission decisions and relevant Court judgements.

- 3.3 Following the UK's exit from the European Union on 31 December 2020 no immediate change to any procurement processes were made as the Procurement Reform (Scotland) Act 2014 reflects the key principles of EU Procurement legislation in all Scottish public sector purchasing over £50k. Scottish Ministers will be responsible for reviewing the financial thresholds every two years, however as the UK remains part of the World Trade Organisation's Government Procurement Agreement (GPA), threshold values must remain aligned to the GPA. This means there is no scope to vary threshold values from those of the GPA or OJEU and values will remain consistent throughout the UK.

Legal Requirements – Regulated Procurements

- 3.4 These Regulations impose minimum procurement standards on contracting authorities and must be followed at all times. Key requirements are:
- Advertisement of the contract on Public Contracts Scotland and for those over the current EU threshold, in the UK Find a Tender Service (via Public Contracts Scotland).
 - Detailed procurement procedures that comply with the timescales set out in the regulations must be followed
 - Requirement specified in such a way that it does not distort or restrict competition
 - Contracts awarded on the basis of most economically advantageous tender
 - Evaluation criteria and associated weightings - all criteria (including sub-criteria) to be used to select suppliers or evaluate tenders must be determined in advance, weighted according to their relevant importance and issued to suppliers with the relevant documentation (e.g. the invitation to tender and any associated evaluation guidance). They must not be amended or added to at a later date.
 - Mandatory Standstill Period - This allows a period of time between the notification of a contract award decision and the commencement of that contract. It is Fife College policy that the minimum standstill period will be applied, following written communication of the award decision.
 - It is Fife College policy that a standstill period will be applied to all requirements above the current EU threshold. Application of the standstill period will be considered on a case by case basis for regulated procurements between £50,000 and EU Threshold, and for requirements over the EU that are called-off a framework agreement.

Challenges

- 3.5 Formal challenges and complaints may be brought against the College alleging a breach of these rules. The consequences of a successful challenge may, depending on the nature of the breach, result in the College being fined; the duration of a contract being shortened; damages being awarded against the College; and reputational damage of the College.
- 3.6 Any challenges raised and any correspondence from legal advisors challenging a Fife College procurement process or contract award decision must be forwarded to the Head of Procurement immediately who must then notify the Chief Financial Officer and the Governance and Compliance Director.

Conditions of Contract

- 3.7 It is Fife College policy that all contracts awarded should be subject to Scots law and using Fife College agreed contract conditions. Any proposal to the contrary, or an attempt by a supplier to make any other law applicable or any proposal for changes or amendments must be referred to Procurement for approval.

Commitment of a Contract

- 3.8 Under Scots law, a contract is an agreement between 2 or more parties that is enforceable by law. There is no fundamental difference between a “purchase”, an “agreement” or a “contract”.
- 3.9 It is Fife College policy that all contracts are in writing and awarded by a Vice Principal, Chief Officer or Principal with the appropriate level of purchasing authority. Legally contracts can be made by word of mouth, or implied by the action of the parties. Therefore, in discussion with suppliers, it is essential that staff ensure that a contract is not unintentionally created.
- 3.10 The exception to the above Conditions of Contract and Commitment of a Contract are purchases made using the Credit Card as these purchases are made under the card provider’s contract conditions and there may be no commitment in writing.
- 3.11 Where a Framework is used to meet requirements, the appropriate Framework Terms & Conditions will apply. These terms can in most cases be customised based on Scots law.

Contract Award Recommendation

- 3.12 It is Fife College policy that a contract award recommendation is required for all purchases over £50,000 (excluding VAT). This satisfies audit requirements and also demonstrates that contracts have been awarded fairly and that project objectives have been met. A recommendation should also be produced for any lower value, high risk contracts where a procurement strategy was approved.

4 Competition

(Scottish Procurement Policy Handbook Section 6 – Competition)

Effective Competition

- 4.1 It is Fife College policy that goods, services and works are obtained through genuine and effective competition unless there are convincing reasons to the contrary (see Non Competitive Action below). The purchaser is responsible for identifying the most appropriate procurement process that is likely to offer the best value for money (VFM). New competitions should normally only be undertaken where the requirement cannot be met through an existing contract or framework agreement Fife College can access.
- 4.2 It is Fife College policy that purchasers use the Public Contracts Scotland (PCS) national advertising portal and that all contracts with an anticipated value in excess of £50,000 (excluding VAT) are advertised on PCS.
- 4.3 Formal tendering procedures, including completion of the Single Procurement Document (SPD) must be used for all local procurements with an anticipated value of more than £50,000 (excluding VAT). SPD’s are not required where the College is using an existing Framework.

- 4.4 The purchaser must carry out a formal quotation exercise or QuickQuote process within PCS for all requirements with an anticipated value of between £20,000 and £50,000 (excluding VAT). Comparable quotations can however be sourced directly by the customer for simple requirements where Procurement support is not deemed necessary.
- 4.5 The purchaser must obtain at least 3 written comparable quotations for all requirements with an anticipated value of between £5,000 and £20,000 (excluding VAT).
- 4.6 Requirements below £5,000 (excluding VAT) do not require formal competition or Purchasing Authority. However, it remains the department purchaser's responsibility to ensure that the purchase represents overall value for money and offers fair and equitable treatment to suppliers.

Non Competitive Action (NCA) & Single Supplier Justification (SSJ)

- 4.7 An NCA or SSJ may only be granted in exceptional circumstances and is strictly limited to situations where competition is not possible. It is Fife College policy that all requests to proceed with an NCA or SSJ receive written approval from the Chief Financial Officer, other Chief, Vice Principal or Principal prior to commencement of any other action.
- 4.8 Examples of exceptional circumstances where NCA may be justified include:
- For work of exceptional urgency caused by unforeseeable circumstances where competitive tendering would cause unacceptable delay (e.g. after critical equipment breakdown, storm, fire, etc.). Insufficient organisational planning (e.g. requirement to spend funds within a particular financial year) **cannot** be considered as acceptable justification. Note: where the total contract value exceeds the current EU procurement threshold, details of this process will be published in a Voluntary Ex-Anti Transparency (VEAT) Notice and included in any return issued by Fife College to the EU Commission.
 - The proposed supplier has, by recent experience (normally, within the last 12 months, but this will depend on relevant market conditions), proved to offer best value for money as the result of a fully compliant, competitive procurement exercise for the **same** requirement. Further competition would be highly likely to produce the same outcome. However, EU procurement rules must be taken into account, dependent on the value of the additional requirement.
 - The proposed supplier is the only one known to provide the goods and/or services required (adequate research must have been carried out to demonstrate that this is the case) and there are no satisfactory alternatives. Note: where the total contract value exceeds the current EU procurement threshold, details of this process will be included in the return issued by Fife College to the EU Commission.
 - Where Intellectual Property Rights are an issue, e.g. bespoke designs and some research programs. However, it is essential that procedures are in place to ensure value for money.

- 4.9 For simple NCA requests under £25,000 (including VAT), a [Single Supplier Justification Form \(SSJ\)](#) must be completed by the requestor with input from Procurement and submitted to the Director of Finance for approval. Great care is needed in authorising NCA as it remains essential that best value for money is achieved and that the procurement process undertaken is fully defensible. More complex NCA requests require more detail to support the request and should use the NCA template available from Procurement.
- 4.10 Any NCA request over £25,000 (including VAT) must be submitted to the Scottish Funding Council for its approval once reviewed and endorsed by the Director of Finance and APUC.

De-Briefing Suppliers

- 4.11 It is Fife College policy that all unsuccessful suppliers, regardless of Contract Value, must be offered a de-brief to explain why their bid was unsuccessful. It is College policy to also offer a de-brief to successful suppliers.
- 4.12 For contracts above the current European Union (EU) threshold, de-brief information must be provided as follows:
- Within the mandatory standstill period, provided it is requested by the end of the second working day following the commencement of the standstill period. Otherwise, and for all other procurements, de-brief information must be provided within 15 days of receipt of the request. All tenderers must be offered a de-brief at the same stage of the procurement process (i.e. within the letter confirming the contract award decision), regardless of when they were eliminated.
 - The reasons for the award decision must be released at the start of the standstill period, rather than on request (i.e. within the award decision letter)

Project Review

- 4.13 It is Fife College policy that a project review should be considered at the conclusion of all projects in excess of £50,000 (excluding VAT). Where possible, the review should be undertaken within 48 days of contract award.
- 4.14 The project review should involve all members of the evaluation team and any other stakeholders who were involved in the procurement process. The findings of the review should be recorded by the purchaser in the Lessons Learned Log.

5 Value for Money

([Scottish Procurement Policy Handbook Section 5 - Value for Money](#))

- 5.1 It is Fife College policy that contracts are awarded on the basis of value for money (VFM). VFM is defined as the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirement. Whole life cost takes into account all aspects of cost over the life of the contract and may include capital, maintenance, management, operating and end-of-life disposal costs.
- 5.2 Only for requirements under £50,000 (excluding VAT) may contracts be awarded on the basis of lowest price.

6 Sustainability

([Scottish Procurement Policy Handbook Section 10 - Corporate Social Responsibility](#))

- 6.1 It is Fife College policy that all purchasing is undertaken in a responsible manner and delivers benefits not only for the organisation but for society, the economy and the environment. Fife College is committed to delivering tangible improvements across the following areas:
- Professional standards for purchasing staff
 - Environmental impact
 - Ethical and social issues
 - Small and Medium Enterprises (SMEs), Fife-based and Scottish suppliers
- 6.2 Sustainable purchasing is embedded within the Fife College procurement procedures and proportionately applied to all its procurement decisions and activity.

7 Ethical Standards

(Scottish Procurement Policy Handbook Section 9 - Working with Suppliers)

- 7.1 It is Fife College policy that its staff maintain the highest standards of honesty, integrity, impartiality and objectivity in all dealings with suppliers and potential suppliers as detailed in the [Scottish Procurement Policy Handbook](#).
- 7.2 Detailed guidance on issues relating to conduct is contained in the [Code of Conduct for Staff policy](#). Purchasers and all others involved in procurement activities (including line managers) must read and be familiar with this.

Declaration of Interest/Potential Conflict of Interest

- 7.3 Purchasers and customers must not be involved in any procurement where they have a relationship or interest in organisations likely to bid for College contracts.

Personal Gain and Gifts

- 7.4 Staff involved in procurement activity, or others who may be perceived to be in a position of influencing purchasing decisions, must not solicit or accept contributions of any kind from Fife College contractors, or those likely to bid for Fife College contracts.

Associated Documents

Document Title	Location
Procurement Procedures Manual	MyFife