



**National Galleries Scotland**

# **Procurement Policy**

**July 2019**

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## **1. Purpose and Scope of Policy**

The policy sets out guidelines for National Galleries of Scotland's (NGS) employees when procuring goods, works and services to ensure compliance with relevant legislation, other NGS policies and procedures and general good practice. The intention is to achieve best value and sustainability in our purchases and the use of public money. This policy directly supports delivery of NGS' corporate priority to develop a sustainable and efficient business model to support our aims and ensure long-term viability.

Procurement is defined here as the purchase of any goods, works and services, including consultancy, by NGS from a third-party supplier, whether under formal contract or otherwise. All members of staff making purchases on behalf of the organisation should act in accordance with this policy and the accompanying procedures.

'NGS' means NGS Charity and NGS Trading Company Ltd. for the purposes of this policy.

## **2. Policy Statement on the Procurement of Goods and Services by NGS**

NGS will provide best value in its expenditure of public funds when procuring goods, works and services from third parties, in line with the principles set out below.

## **3. Key Principles for Procurement**

The policy statement is underpinned by the following principles:

### **3.1 Compliance with:**

#### **3.1.1 EC Treaty Principles and International Obligations**

Procurement must observe European Community (EC) Treaty Principles of Equal Treatment, Transparency, Proportionality, Mutual Recognition and Confidentiality and processes must comply fully with the EC Procurement Directives and the World Trade Organisation Government Procurement Agreement (WTO GPA).

#### **3.1.2 Scottish Government Guidelines**

NGS will follow best practice in procurement through the Scottish Government's Procurement and Commercial Improvement Programme (PCIP). As part of this project NGS has established an Action Plan to improve future capability. Attention is drawn to procurement policy information available at <https://www.gov.scot/policies/public-sector-procurement/support-for-public-sector/>.

NGS procedures follow the guidelines set out in the Procurement Journey, found at <https://www.procurementjourney.scot/>.

#### **3.1.3 Legislative Requirements**

There are several key pieces of legislation which NGS must comply with which relate to procurement:

- Procurement Reform (Scotland) Act 2014
- Public Contracts (Scotland) Regulations 2015
- The Procurement (Scotland) Regulations 2016

#### **3.1.4 Other relevant pieces of legislation include:**

- Freedom of Information (Scotland) Act 2002
- Public Services Reform (Scotland) Act 2010
- Bribery Act 2010
- Equality Act 2010 and the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012
- Environmental Information (Scotland) Regulations 2014
- Modern Slavery Act 2015
- Human Trafficking & Exploitation Act 2015
- General Data Protection Regulation (EU) 2016/679
- Data Protection Act 2018

Employees should bear in mind the requirements and duties placed on NGS by these acts when procuring goods, works and services to ensure full compliance.

### **3.2 Sustainable Procurement**

NGS recognises that the procurement choices it makes can have significant socio-economic or environmental implications. In procuring goods, works and services, NGS will make every effort to ensure there are no unjustifiable negative impacts as a result of our actions, acting in accordance with the Sustainable Procurement Duty set out in the Procurement Reform (Scotland) Act 2014. Further to this we intend to incorporate circular economy strategies whenever appropriate. We will also consider how our procurement decisions can advance equality of opportunity and foster good relations, as required by the Equality Act 2010. We will use the Scottish Government's Supported Business Framework where there is a requirement to purchase goods and services covered by this contract.

Procurement must be taken in line with the highest ethical standards and with fairness to suppliers. To this end NGS has signed up to the Suppliers Charter, a copy of which is available in the Procurement folder on the O Drive for reference. It is an offence under the Bribery Act 2010 for those employed by NGS in their official capacity corruptly to accept any gift or consideration as an inducement or reward for doing, or refraining from doing, anything or showing favour or disfavour to any person. See NGS policies on bribery and acceptance of hospitality and gifts, and the staff Code of Conduct which offer advice in this regard.

We will procure fairly and ethically traded goods and services in accordance with current legislation. If a procurement procedure includes the provision of food, we will pursue the highest standards of animal welfare and promote health, wellbeing and locally grown and sourced produce supply chains.

As a minimum requirement across all contracts and detailed within the T&Cs of all contracts, Suppliers are expected to take environmental concerns into consideration at all stages in the performance of the contract, having due regard to NGS's Sustainability and Environmental Management Policy.

### **3.3 Best Value**

The central aim of the procurement process is to ensure Best Value is achieved.

Best value should not be judged solely on the basis of the lowest initial cost. Design, reliability, maintainability, running costs (carbon footprint) and disposal, for example, will affect the total cost over the life of a product. Factors such as these may justify a higher initial cost and be deemed most economically advantageous. Purchasers should determine the appropriate balance between quality and 'whole life' costs when procuring goods, works and services and must be able to justify why a particular purchase was made.

A competitive procurement process is essential for achieving Best Value.

### **3.4 Open Competition**

Procurement should be through open competition unless there are convincing reasons to the contrary. Further guidance on ensuring a competitive procurement process is available in the procurement procedures which accompany this policy.

### **3.5 Separation of Duties**

In the interest of financial probity, the roles of the purchaser and payment authoriser must be separated. In order to make a binding commitment the authoriser must be a *delegated approver* with an appropriate level of delegated financial authority. This separation of duties is built into the eRequest electronic procurement system used by NGS. *Delegated purchasing authority* is required to be able to sign contracts on behalf of NGS.

### **3.6 Proportionality & Practicality**

NGS will ensure its approach to procurement is, as far as possible, proportionate and practical for the level of spend and/or risk involved. With competing priorities and limited resources, we must ensure that the investment of time and effort to undertake procurement is appropriately allocated and focused where it is most needed, while still meeting our obligations as a public body.

### **3.7 Transparency & Accountability**

In relation to public procurement, the Freedom of Information (Scotland) Act 2002 provides a general right of access to information about all public contracts and procurement activity held by NGS, subject to certain conditions and exceptions. NGS must therefore ensure all procurement is undertaken transparently and in such a way that would not bring any reputational damage to the organisation. NGS is accountable for its procurement decisions.

### **3.8 Counter Fraud**

NGS has a Counter Fraud Strategy and has published a series of key policies on; Code of Conduct, Bribery, Fraud, Conflicts of Interest, Whistle-blowing, Outside Activities and Acceptance of Hospitality & Gifts. In order to minimise risk to the organisation all relevant staff receive training upon induction with recap biennial training sessions. Furthermore, NGS reviews spend profile to understand where fraud risks may lie and actions are taken to mitigate these risks.

### **3.9 Equality, Diversity & Non-Discrimination**

We consider equality throughout our tender processes and comply with the Equality Act 2010 and the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. Suppliers are required under our standard terms and conditions not to discriminate unlawfully against any person within the meaning of the Equality Act 2010 in its activities relating to the Contract or any other contract with the Purchaser. Our additional duties require us to advance equality of opportunity and foster good relations, which we will also seek to do wherever possible in our procurement of goods and services.

### **3.10 Data Protection by Design**

Any procurement which will involve an element of processing of personal data must take a 'data protection by design' approach, as required by the GDPR. This may mean undertaking a data protection impact assessment (DPIA) to identify any potential data protection risks. A DPIA is obligatory in certain cases, and highly recommended in others. A data processing agreement must be in place when NGS is instructing a third party to process personal data on our behalf.

### **3.11 Contracts**

Contracts must be in writing and in accordance with National Galleries of Scotland's Terms and Conditions.

### **3.12 Payment**

Suppliers must be paid on time in accordance with contractual arrangements. NGS are committed to paying our suppliers promptly within 30 days of receipt of a valid invoice. NGS terms and conditions of contract stipulate that suppliers must also comply with payment of their sub-contractors within 30 days of receipt of invoice.

### **3.13 External Consultancy**

In all cases, consultancy must be procured in line with these guidelines. If consultants are employed by NGS to undertake procurement, they must abide by the same rules and procedures as NGS staff.

#### **4. Delivering this Policy**

Once a requirement to purchase goods or services has been identified, the prospective purchaser must act in accordance with various practices and procedures in place within NGS to ensure compliance with legislation, directives and obligations; best value and sustainability. Full details are set out in the procurement procedures which accompany this policy, making reference to the following:

- 4.1 Budget Responsibilities
- 4.2 Collaborative Contracts
- 4.3 The Competitive Tendering Process
- 4.4 Contracts Procedure

#### **5. Failure to Comply with Procurement Policy and Procedures**

Failure to comply with NGS' procurement policy and procedures may result in the organisation incurring unnecessary or excessive expenditure and not achieving best value for the public. Any breaches will be investigated and may result in disciplinary action against the individual(s) concerned, in line with our Discipline and Grievance procedures.

#### **6. Policy Review**

This policy will be updated as and when required and will be formally reviewed every two years.

#### **7. Contacts**

For further information on this policy and the procedures which accompany it, please contact the following people:

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