



**Crown Estate  
Scotland**  
Oighreachd a' Chrùin Alba

# Interim Procurement Strategy and Policy



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## Document Control

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## 1. Introduction

The objective of Crown Estate Scotland procurement is to ensure that it achieves Best Value when procuring goods and services.

Crown Estate Scotland became a Scottish Public Sector Contracting Authority on 1 April 2020 and must meet its legal obligations under both domestic and European law.

Crown Estate Scotland follows The Scottish Model of Procurement which puts procurement at the heart of Scotland's economic recovery. It sees procurement as an integral part of policy development and service delivery. Best Value is not just about cost and quality, but also includes a range of themes including Governance and Accountability, use of resources, working with communities, sustainability and fairness and equality.

## 2. Interim Procurement Strategy

### 2.1. What will we do

The strategy will support delivery of Business Plan targets by ensuring that all procurement activities deliver Best Value for Crown Estate Scotland and by evidencing openness and transparency of activities.

As Crown Estate Scotland became a Scottish Public Sector Contracting Authority on 1 April 2020, a separate updated Procurement Strategy is being developed and will be brought forward to the Board for approval in June 2020. At that time the Strategy section within this document will be updated to refer to the new Strategy and this document will become the Contract Register Policy and Control Procedure.

All procurement activities will be guided by these Procurement Principles:

- i) Procurement processes should be open, fair, transparent and proportionate.
- ii) Procurement should leverage maximum value for money from collaborative procurement activities.
- iii) Procurement should ensure the appropriate balance and weighting of award criteria taking account of cost, quality and sustainability.
- iv) Procurement should ensure the appropriate (active and effective) level and use of contract management over the course of any contract.

Procurement activities will demonstrate Crown Estate Scotland values of commercialism, collaboration, excellence and integrity.

Procurement data will be collected (by designated staff including the Procurement Manager and the Financial Controller) and held centrally to provide comprehensive insight into procurement activities, including developing appropriate performance targets. Procurement data will be reviewed on a regular basis and reported as required.

All documentation associated with procurement activities (including all tender documentation, received quotes/ tenders and associated assessment(s)) will be retained in line with Crown Estate Scotland document retention policy.

## 2.2. How will we do it?

Specific procurement requirements will be determined by contract value. Contract value means total contract value – e.g. for a 3-year or recurring contract, total contract value is taken across all 3 years. Detailed contract limits are outlined in the Procurement Policy section.

Detailed advice and guidance on competitive tendering processes are also contained in the accompanying Procurement Policy section.

To ensure Best Value, Procurement Principles iii) and iv) are of particular importance.

Principle iii) (clear identification of award criteria and weighting) needs to be addressed at the outset of any procurement activity. Award criteria must be considered in detail. That consideration must include both identification of criteria and assessment of relative weighting of that criteria within the overall procurement decision.

For competitive procurement decisions (generally, those in excess of £10K value), a clear decision rationale should be documented.

All contract award decisions should be recorded via completion of a Decision Record Sheet (DRS).

Once a contract is awarded, Principle iv) (active and effective contract management) becomes pertinent. Typically, Best Value will be realised if contract delivery is consistent with contract terms. Detailed advice and guidance on contract management, registration and review are outlined in the accompanying Procurement Policy section.

## 2.3. Who will do what?

All staff within Crown Estate Scotland must comply with the principles set out in the Strategy and the Policy. Breaches of this policy and therefore procurement legislation may lead to disciplinary action. Colleagues must familiarise themselves with, and follow, this policy and familiarise themselves with the implications of procurement legislation in undertaking their role within Crown Estate Scotland.

Within each business area, a staff member will be designated responsible for procurement activities. Appropriate training will be given by the Procurement Manager.

Where acting for and on behalf of Crown Estate Scotland all Managing Agent (MA) procurement systems and processes will require to be consistent with Crown Estate Scotland's Interim Procurement Strategy and Policy.

A key aspect of the strategy is to leverage maximum value from collaborative activities. The Procurement Manager will represent Crown Estate Scotland in such activities (e.g. Scottish Government Cluster Groups, designed to disseminate Best Practice in procurement).

Designated staff in each business area will have responsibility for individual activities, with Commercial/ Financial/ Legal support as necessary. In particular, they will:

- i) Support procurement development including contract scope and relative weighting of contract award criteria.
- ii) Oversee Contract management (in the contract delivery phase).

### 3. Procurement Policy

#### 3.1. Value for Money

Crown Estate Scotland became a Scottish Public Sector Contracting Authority on 1 April 2020 and must meet its legal obligations under both domestic and European law.

All public sector organisations procuring goods and services must ensure they obtain value for money. The procurement process must ensure that it selects the bid that offers the “optimum combination of whole life costs and quality”. In Scotland, contracts should be awarded on the basis of Most Economically Advantageous Tender (MEAT), evaluating both the price and quality of the tenders submitted. Quality can include a range of elements including technical merit and functional characteristics.

To assess MEAT, a Price : Quality ratio will be applied which balances the relative importance of price and quality and sustainability in the tender.

For example, where performance takes a high priority a Price : Quality ratio of 35:65 may be applied. The relative importance of the criteria on which the contract will be awarded will be listed in either the “Invitation to Quote (ITQ)” or “Invitation to Tender (ITT)” documentation.

#### 3.2. Roles and responsibilities

Overall responsibility for application of the Policy lies with the Chief Executive. The Chief Executive is supported centrally by the Director of Finance and Business Services, the Commercial Manager and the Procurement Manager. The Commercial Manager and Procurement Manager have specific responsibilities to:

- 3.2.1.** Provide appropriate training and support to members of staff carrying out individual procurement activities;
- 3.2.2.** Maintain appropriate procurement documentation (e.g. Terms & Conditions, Invitation to Tender (ITT) documents, scoring matrices).
- 3.2.3.** Consider what (if any) other support is required in an individual procurement activity (e.g. legal);

#### **3.2.4.** Collect, maintain, analyse and disseminate procurement data, as required.

The Procurement Manager is responsible for preparing the Procurement Strategy and the Annual Procurement Report together with supporting the organisation in all of its Procurement Activities.

The Commercial Manager and/or the Procurement Manager will represent Crown Estate Scotland in Scottish Government (SG) related procurement activities and efforts (e.g Cluster Group best practice networks). The procurement Manager is also responsible for administering Crown Estate Scotland access to the Public Contracts Scotland Portal (PCSP) and understanding the range of SG Framework Agreements open to Crown Estate Scotland.

Within each business team, individual staff members ('responsible person') will be designated (by the relevant member of the Executive Committee) to have responsibility for procurement in their area. They will be supported by the Commercial Manager and the Procurement Manager as detailed above.

For each Managing Agent, the lead Partner will have responsibility to ensure that any procurement undertaken on behalf of Crown Estate Scotland will be carried out in agreement with this Policy.

### **3.3. Declaration of Interests**

In undertaking or participating in any aspect of procurement, colleagues are required to declare any personal interest, which may be perceived, or be perceived by others to affect that member of staff's impartiality in a matter relevant to his or her duties.

Alternatively, where an employee, or the spouse/ partner, or a close relative of an employee acts as a supplier, or is employed, or holds significant interest in a business that trades, or has the potential to trade with Crown Estate Scotland, then the employee has a duty to declare any such interests.

In the first instance this declaration must be made to the Procurement Manager or the Commercial Manager and may be referred to the Director of Finance and Business Services.

### 3.4. Control Limits and Processes

The fundamental approach to individual procurement activities, with associated financial control limits, is described below:

Contract value	Procedure	Comment
A Up to £5k over length of contract	Ad hoc procedure	<ul style="list-style-type: none"> <li>Ideally, source a minimum of 2 suppliers for quotes</li> <li>Appropriate CES Ts &amp; Cs will normally apply</li> <li>In the absence of competitive quotations value for money must be demonstrated by reference to internal costs or previous costs for similar requirements</li> </ul>
B £5k - £10k over length of contract	Consider Competition	<ul style="list-style-type: none"> <li>If no competition, explain why</li> <li>Ideally, source 3 suppliers for quotes</li> <li>Appropriate CES Ts &amp; Cs will normally apply</li> </ul>
C £10k - £50k over length of contract	Competition	<ul style="list-style-type: none"> <li>Consider use of Quick Quote facility on Public Contracts Scotland Portal (PCSP) to enable local suppliers to be invited</li> <li>Appropriate CES Ts &amp; Cs will normally apply</li> <li>Tenders (price, quality and service) must be obtained from at least 3 suppliers</li> <li>Clear decision rationale documented</li> </ul>
D £50k+ over length of contract	Competition - Regulated Procurement	<ul style="list-style-type: none"> <li>Advertise on PCSP (Non-OJEU Contract Notice)</li> <li>Multi person award decision</li> <li>Commercial/ financial/ legal advice to be enlisted as necessary</li> <li>Clear decision rationale documented</li> </ul>
E Framework	Set up/ Call off	<ul style="list-style-type: none"> <li>Discuss requirements with Procurement Manager</li> </ul>

#### < £5,000 Contract Value

1. Small purchases of below £5,000 over the lifetime of the contract including any extensions will be subject to ad-hoc procurement procedures.
2. Attention is required to ensure a suitable specification/ scope of work is developed, prior to procurement being undertaken. That specification or scope should encompass consideration of desired product/ service attributes (e.g. if buying paper, should it be recycled or is better quality necessary).
3. The Procurement Manager should be consulted to ascertain whether there is an appropriate SG or other Framework Agreement through which the item could be procured.
4. If a SG or other Framework Agreement is not available, then a minimum of 2 competitive prices should be sought from potential suppliers.

### **£5,000 - £10,000 Contract Value**

5. For contract values between £5,000 and £10,000 over the lifetime of the contract including any extensions, there is a presumed need for a competitive tendering process. If the responsible person considers (for whatever reason) that competitive tendering is not necessary, that approach must be discussed and agreed with the Procurement Manager before procurement is started.
6. Ideally, 3 competitive quotes should be obtained from suppliers. A clear specification or scope of work should be developed beforehand, including desired attributes other than price (e.g. can it be locally sourced or environmental attributes).
7. At this level of contract value, use of appropriate Crown Estate Scotland Terms & Conditions would normally be considered as default. The Procurement Manager should be consulted if there is any doubt in this regard.

### **£10,000 - £50,000 Contract Value**

8. For contract values between £10,000 and £50,000 over the lifetime of the contract including any extensions, there is an absolute requirement for competitive tendering to be undertaken. An exception to this is a situation where the required product or service is specialist or geographically difficult to source, to the extent that competitive tendering is not possible. This situation must be discussed and agreed with the Procurement Manager before procurement is started.
9. To aid transparency and support delivery of Best Value, it is recommended that, where possible, the Quick Quote facility on the PCSP is to be used to tender contract values in this range. Tenders from a minimum of 4 suppliers should be sought.
10. Whether or not the Quick Quote facility is used, the basic process for contracts of this value will be the same:
  - i) Potential suppliers should be identified (either via PCSP or other means);
  - ii) An Invitation to Quote (ITQ) or Invitation to Tender (ITT) should be prepared. This must include a Brief (a comprehensive product specification or service scope of work), description (including relative weighting) of the evaluation criteria (and method of evaluation/scoring) to be used and model Contract;
  - iii) The ITQ should be published via the Quick Quote function of PCSP and the potential suppliers identified should be invited to bid. An ITT (if Quick Quote is not being used) would be published on PCS as an Open tender;
  - iv) Responses should be received (by the date specified in the ITQ/ITT allowing sufficient time for the procurement process to operate effectively) and

evaluated (against the evaluation criteria included in the ITQ/ITT). The preferred supplier is thus identified;

- v) The result of the evaluation is then communicated to the preferred supplier (via a Contract Award Letter) and the other respondees (via an Unsuccessful Tenderer Letter). If Quick Quote is used, a Contract Award Notice should be posted;
- vi) The Contract is then issued to the successful party.

### **£50,000+**

11. For contract values in excess of £50,000 over the lifetime of the contract including any extensions, there is a requirement for competitive tendering to be undertaken.
12. For regulated procurements (above £50K for Supplies and Services) we have an obligation to advertise these opportunities.
13. To aid transparency and support delivery of Best Value, open tenders should be sought via the PCSP. After discussion with the Procurement Manager, where it is considered that there may be an excessive number of responses then a two stage or restricted procedure could be utilised (i.e. selection stage followed by ITT). The use of contract strategies for all procurement above this level should also be considered. There is also a requirement to consider lessons learned from previous procurement exercises including risks and issues, insurance, data protection/sharing, market research, Fair Working Practices (FWP), Community Benefits, Sustainability and Ethical Procurement.
14. The basic process to be followed is as follows:
  - i) The opportunity should be advertised on PCSP through the use of a 'Non-OJEU or website Contract Notice';
  - ii) An Invitation to Tender (ITT) should be prepared. This must include a Brief (a comprehensive product specification or service scope of work), description (including relative weighting and method of evaluation/scoring) of the evaluation criteria to be used and model Contract;
  - iii) The ITT should be posted via the PCSP;
  - iv) Responses should be received (by the date specified in the ITT) and evaluated (against the evaluation criteria included in the ITT). Evaluation criteria and approach for contracts of this scale is necessarily more rigorous than for lower value agreements. In particular, a multi person award panel decision is required. In addition, appropriate commercial/ financial/ legal advice should be enlisted. The preferred supplier is thus identified;

- v) The result of the evaluation is then communicated to the preferred supplier (via a Contract Award Letter) and the other respondees (via an Unsuccessful Tenderer Letter). A Contract Award Notice should be posted on the PCSP;
- vi) The Contract is then issued to the successful party.

### **Framework Agreements**

- 15.** A **framework agreement** is a general term for **agreements** with suppliers that set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the **agreement**.
- 16.** Generally, Crown Estate Scotland may consider opportunities for use of framework agreements established by other bodies (e.g. Scottish Government, UK Government, Crown Commercial Services). Crown Estate Scotland may not have automatic access to all SG/ UK Government framework agreements.
- 17.** The Procurement Manager should be consulted before access to a particular framework agreement is attempted.

### **Selection Criteria & Weighting**

- 18.** Given our legal duty to achieve 'Best Value' under Scottish Public Finance Manual, the cost implications of any contract proposal will continue to carry significant weight when it comes to assessing that proposal.
- 19.** Other criteria must also be taken into account (and given appropriate weighting):
  - i) Quality and deliverability;
  - ii) Sustainability (including social and environmental impacts).
- 20.** Sustainability impacts are inherently more difficult to assess/demonstrate than financial impacts. Care must be taken at the ITT/ITQ stage to ensure desired criteria are properly identified, along with means of assessing them.

## Documentation

21. Copies of all relevant contract documentation will be stored centrally (including ITT/ITQ and evaluation documents).
22. Copies of all relevant contract documentation (including successful and unsuccessful bids, associated evaluation documentation and DRS's) will be retained in line with adopted Crown Estate Scotland Document Retention policy.
23. Confirmation and details of awarded contracts should be sent to the Commercial Manager on completion, including counterparty, term, indicative value and scope of work/ specification. This allows a comprehensive picture of procurement activities to be built-up and maintained.
24. A Decision Record Sheet, and the process behind it, will be used to capture each contract award.

## 3.5. Contract Management

1. Proactive contract management is a vital component of ensuring Best Value delivery.
2. Supplier performance will be managed throughout the lifetime of the contract by the Contract Manager, the **person who instigated the procurement of the contract/product**, or their successor.
3. Contract variations may result in the need for a new procurement process. As such, variations should be treated as exceptional and kept to a minimum – changes should not materially alter the original contract.
4. The Commercial Manager should be consulted regarding a potential contract variation.

## Contract Signatory

5. The contract will be approved by the relevant manager/group as per Annex B in the Scheme of Delegation.
6. The contract will be signed by the relevant manager authorised by the manager/group as per Annex B in the Scheme of Delegation.

7. The Contract Signatory will designate a Contract Manager to manage the contract performance and the contract lifecycle – this will include flagging up any issues, instigating the reprocurement of the contract and advising on whether the contract should be amended or developed as the needs of the business change over time.

### 3.6. Contract Register and Review Process

8. The Contract Manager will be responsible for ensuring that the Contract Register is kept up to date and should liaise with the Procurement Manager and the Financial Controller to ensure that related contract review and purchase orders are instigated as required.

#### **Ongoing Contract Review Process – see Annex A**

9. The Procurement Manager will review the contract register on a monthly basis with the Director of Finance and Business Services and any issues, contracts requiring reprocured or new contracts will be discussed and appropriate action taken.
10. The Contract Manager will review all contracts on a monthly basis for all contracts that last for longer than 6 months. Shorter contracts that last less than 6 months should be actively managed as agreed at the outset of the contract to ensure that the contract delivers on time and as per the requirements of the contract – this could be monthly or more regularly depending on the contract.
11. The Contract Manager should flag up any issues with the Procurement Manager in the first instance and thereafter with their Director, Financial Controller and the Director of Finance and Business Services as appropriate.
12. Contract variations may result in the need for a new procurement process. As such, variations should be treated as exceptional and kept to a minimum – changes should not materially alter the original contract. Generally no contract variation above 10% of the original contract value will be considered, instead there would be a new procurement process. Contract variations would be subject to review and approval as outlined in the following table:

<b>Contract increase</b>	<b>Approval process</b>	<b>Approval process</b>
A Up to £10k	<ul style="list-style-type: none"> <li>• Discuss with Procurement Manager</li> </ul>	<ul style="list-style-type: none"> <li>• Normal budget approval processes apply</li> </ul>
B Up to £25k	<ul style="list-style-type: none"> <li>• Discuss with Procurement Manager</li> <li>• Assess whether contact should be terminated and reprocured</li> </ul>	<ul style="list-style-type: none"> <li>• Relevant Director should approve</li> </ul>
C Up to £50k	<ul style="list-style-type: none"> <li>• Discuss with Commercial Manager</li> <li>• Assess whether contact should be terminated and reprocured</li> </ul>	<ul style="list-style-type: none"> <li>• Relevant Director and Director of Finance and Business Services should approve</li> </ul>
D Over £50k	<ul style="list-style-type: none"> <li>• Chief Executive, relevant Director and Director of Finance and Business Services should review options outlined by Contract Manager and Commercial Manager</li> <li>• Assess whether contract should be terminated and reprocured</li> </ul>	<ul style="list-style-type: none"> <li>• Chief Executive should approve</li> </ul>

### **Process at end of contract**

13. The Contract Manager should update the Contract Register when the contract terminates and review and record the outcomes from the process to ensure any learning is incorporated into any future contracts.
14. The Contract Manager should undertake a post contract review on any contract. The review should assess the success (or otherwise) of a particular contract, in terms of delivery, quality of output and total spend against budget.

### **Annual and Statutory Contract Review Process**

15. The Procurement Manager will review the Contract register on an annual basis and produce the Procurement Annual Report.
16. The Procurement Manager will liaise with Directors and Managers and will develop the Procurement Strategy and forthcoming contracts which will be required in order to successfully deliver the Corporate and Business plans.
17. The Procurement Manager will ensure that the website is updated monthly, annually and as required with the relevant spend information required by legislation.
18. This annual oversight, linked to the planning and budget system will ensure that all upcoming renewals can be scheduled in good time and assessed and resourced accordingly.

### 3.7. Contract Register Fields

The Contract Register has been developed to enable a link between the Contract approval process and the Purchase Ledger process. This is currently a manual process and it will be further developed over the coming months with the hope that it will eventually be automated using Microsoft SharePoint which will allow for automatic flags to be emailed when deadlines and trigger points are approaching.

The Contract Register Fields are listed in Annex B.

## 4. Related Crown Estate Scotland policies

- Board Code of Conduct
- Gifts and Hospitality Policy
- Fraud Policy

## 5. Legal Background

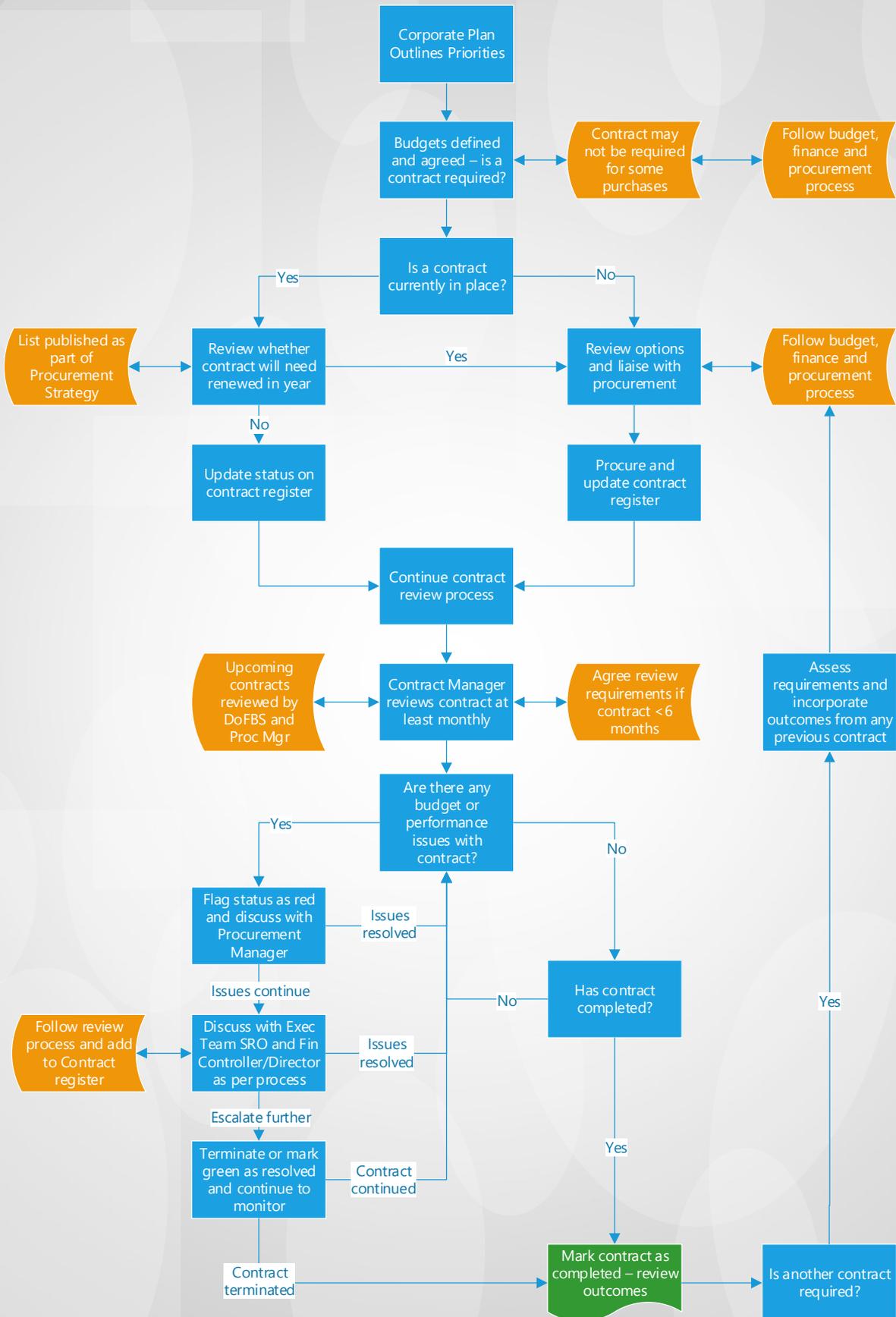
As a Contracting Authority, Crown Estate Scotland is required to comply with the Procurement Reform (Scotland) Act 2014, the Public Contracts (Scotland) Regulations 2015 (which transpose the Public Procurement Directive) and the Procurement (Scotland) Regulations 2016 (which were made under the Act).

Contracting Authorities must also have regard to any statutory guidance published by the Scottish Ministers and should read such guidance together with the relevant sections of the Act and the Regulations. There is statutory guidance which impacts on Crown Estate Scotland on the following:

- procurement strategies and annual procurement reports (section 20 of the Act);
- sustainable procurement duty (section 10 of the Act);
- community benefit requirements in procurement (section 26 of the Act);
- selection of tenderers and award of contracts (section 29 of the Act); and
- Addressing Fair Work Practices, including the Living Wage, in Procurement (section 29 of the Act).

## 6. Annexes

### Annex A – Contract Review Flowchart



## Annex B – Contract Register Fields

The following columns are used in the contract register to record and monitor contracts. Further fields may be added to enable the delivery of future KPIs as required by the future Procurement Strategy currently being developed.

Column 1	Contract ID
Column 2	Division
Column 3	Business Sector
Column 4	Contract Signatory
Column 5	Contract Manager
Column 6	Supplier Name
Column 7	Dimensions Supplier Code
Column 8	Description
Column 9	Procurement Type
Column 10	Contract Value
Column 11	Budget available
Column 12	Contract Start Date
Column 13	Contract End Date
Column 14	Review date
Column 15	Contract Live/Ended
Column 16	Contract Completed
Column 17	Extension required
Column 18	If Yes - link to new contract
Column 19	Contract Price
Column 20	Contract Length
Column 21	PO no. 1
Column 22	PO amount
Column 23	PO no. 2
Column 24	PO amount2
Column 25	PO no. 3
Column 26	PO amount3
Column 27	Amount remaining
Column 28	Link to copy of contract
Column 29	Additional documentation
Column 30	Notes