

Scottish Government

Guidance for public sector buyers on

purchase of goods and services from

Supported Businesses

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# Ministerial Foreword

Supported Businesses make an important contribution to the Scottish economy. Not only through the goods and services they deliver, but also by providing meaningful employment, training, and social support for those who may otherwise be excluded from the workplace.

This document seeks to provide guidance for public sector buyers who procure goods and services to enable them to better consider how procurement activity is conducted, and contracts are developed, in order to reduce barriers and enable participation of supported businesses in Public Sector Procurement.

These organisations are an integral part of the business community in Scotland and the Scottish Government is committed to leveraging procurement opportunities to help support Scotland’s supported businesses within the procurement process.

When I spoke to public body leaders at the Public Service Reform summit in February 2025, I highlighted the need to support Scotland’s supported businesses. This is a prime example of preventative spend – using the power of our procurement spend at relatively low cost to support individuals to stay in employment, who might otherwise find themselves costing the public purse considerably more were those opportunities not available to them.

Where the services / goods a public body is looking to buy can be provided by supported businesses, public bodies should look to follow the reserved contracts procedure.

I would also strongly encourage public bodies who procure the types of goods and services supplied by supported businesses to target **at least 1%** of their overall procurement spend on supported businesses where they are not doing so already. Doing so will make a significant difference to the sustainability of Scotland’s supported businesses.

Mr. Ivan McKee MSP - Minister for Public Finance

# Policy and Legal Context

Supported businesses are organisations whose main aim is to integrate disabled or disadvantaged people socially and professionally into work. The ability for contracting authorities to restrict participation in a tender exercise to supported businesses has been part of national procurement legislation since 2006.

The provision within the legislation which makes this possible is also referred to as "Reserved Contracts". Regulation 21 of the [Public Contracts (Scotland) Regulations 2015](https://www.legislation.gov.uk/ssi/2015/446/regulation/21) states:

A contracting authority may:

1. reserve the right to participate in procurement for the award of a public contract or framework agreement to a supported business or
2. provide for such a contract or framework agreement to be performed in the context of a supported employment programme.

[The Procurement Reform (Scotland) Act 2014](https://www.legislation.gov.uk/asp/2014/12/contents) ("the 2014 Act") similarly includes a provision allowing contracting authorities to restrict participation in the tendering process to supported businesses only. It also places a requirement on a contracting authority to:

* consider, before starting a procurement competition, how, by the way in which it conducts the procurement process, it might facilitate the involvement of supported businesses and
* (assuming the contracting authority considers it may facilitate involvement of supported businesses) then to act in a way to best bring that about

Under the 2014 Act, the definition of a supported business and supported employment programme is the same as under the Regulations.

The definition of a supported business is twofold. Firstly, a bidding organisation must have the social and professional integration of disabled and disadvantaged persons as its main aim. This may be evidenced in the organisation's Articles of Association (in the case of companies) or such other constitutional documentation that governs the organisation. It is within the discretion of individual contracting authorities to determine whether a bidding organisation has demonstrated the requirement that it has, as its main aim, the social and professional integration of disabled and disadvantaged persons.

Secondly, the definition requires that at least 30% of the employees of the organisation are disabled or disadvantaged. Regulation 2 of the [Public Contracts (Scotland) Regulations 2015](http://www.legislation.gov.uk/ssi/2015/446/contents/made) states "disabled", in relation to a person, means a disabled person within the meaning of the [Equality Act 2010](https://www.legislation.gov.uk/ukpga/2010/15/contents) and, in relation to a worker, means a disabled person who is a worker (see [Section 6](https://www.legislation.gov.uk/ukpga/2010/15/section/6) of the Equality Act 2010).

The Public Contracts (Scotland) Regulations 2015 does not define “disadvantaged workers”. Contracting authorities may look to the EU Public Procurement Directive 2014/14/EU, from which Regulation 21 derives, and in particular Recital 36 which describes a disadvantaged person as “the unemployed, members of disadvantaged minorities or otherwise socially marginalised groups”. Contracting authorities may also find it helpful to consider the definition of a “disadvantaged worker” given in the European Commission Regulation (EU) No 651/2014 of 17 June 2014.

To meet the second part of the definition, organisations are only able to count [employees](https://www.gov.uk/employment-status/employee) or [workers](https://www.gov.uk/employment-status/worker) when setting out whether they meet the 30% threshold. Volunteers and those doing unpaid work placements or internships therefore do not count towards meeting the definition of a supported business. Organisations can count staff for which remuneration or part of remuneration is funded through a third party (for example, through the Scottish Government funded employability provision commissioned through Local Employability Partnerships, under the No One Left Behind approach).

The precise proportion of employees qualifying as disabled or disadvantaged may fluctuate over time. Contracting authorities may therefore want to satisfy themselves the organisation has in place HR and resourcing policies that illustrates its overall commitment to employing staff from the target group. It is important that a disproportionate burden is not placed on organisations or contracting authorities in reviewing staffing levels.

In order to be considered a supported business eligible to bid for a Reserved Contract, organisations will need to fulfil both parts of the definition. Buyers should conduct appropriate due diligence to determine if organisations meet the two-part definition of a supported business.

Under the 2014 Act, contracting authorities with an annual regulated procurement spend equal to or greater than £5 million are required to publish an annual procurement report. One of the mandatory elements to be included in the report is "a summary of any steps taken to facilitate the involvement of supported businesses in regulated procurements during the year covered by the report". [Statutory guidance on procurement strategies and annual procurement reports](http://www.gov.scot/Publications/2016/03/8410) can be accessed from the Scottish Government website.

Contracting authorities are also encouraged to complete the [Annual Procurement Report data template](https://www.procurementjourney.scot/procurement-strategy-annual-procurement-report%22%20/l%20%22%3A~%3Atext%3Dand%20complete%20the-%2CAPR%20data%20template%2C-%28also%20referred%20to) (sometimes referred to as Annex A, which may change from time to time), recording:

* total number of all regulated contracts that were awarded to supported businesses during the reporting period (this includes contracts reserved for supported businesses)
* total amount of spend with supported businesses during the reporting period (through regulated and non-regulated contracts)
* total spend with supported businesses during the reporting period through regulated contracts (including spend within the period on contracts placed before the period)
* total spend with supported businesses during the reporting period through non-regulated contracts (including spend within the period on contracts placed before the period)
* total value of contracts subcontracted to supported businesses during the period of the report

# Why should public bodies use a supported business?

Supported businesses are organisations whose main aim is to integrate disabled or disadvantaged people socially and professionally into work.

The [sustainable procurement duty](https://www.legislation.gov.uk/asp/2014/12/section/9) outlined in the [Procurement Reform (Scotland) Act 2014](http://www.legislation.gov.uk/asp/2014/12/contents) ("the 2014 Act") requires that before a contracting authority buys anything, it must think about how it can improve the social, environmental and economic wellbeing of the area in which it operates, with a particular focus on [reducing inequalities](https://www.gov.scot/policies/public-sector-procurement/procurement-equality-duties/).

It aligns with our purpose to create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. It is underpinned by the [National Performance Framework](https://www.gov.scot/collections/national-performance-framework/?via=https://nationalperformance.gov.scot/) and Scotland's Economic Strategy. It also requires a contracting authority to consider how its procurement processes can [facilitate the involvement of SMEs, third sector bodies and supported businesses.](https://www.gov.scot/policies/public-sector-procurement/sme-access-to-public-contracts/)

This intent is supported by the Procurement Reform (Scotland) Act 2014 which includes a provision allowing public bodies to restrict participation in the tendering process to supported businesses only.

[The Procurement Reform (Scotland) Act 2014](https://www.legislation.gov.uk/asp/2014/12/section/9)similarly includes a provision (Section 11 -sustainable procurement duty) allowing public bodies to restrict participation in the tendering process to supported businesses only. It also places a requirement on a public body at Section 9 of the sustainable procurement duty to:

* consider, before starting a procurement competition, how, by the way in which it conducts the procurement process, it might facilitate the involvement of supported businesses and
* (assuming the public body considers it may facilitate involvement of Supported Businesses) then to act in a way to best bring that about.

It is in the interest of public bodies to monitor how they are facilitating supported businesses in their procurement activities as it will help bodies evidence their compliance with the sustainable procurement duty and [annual reporting requirements](https://www.procurementjourney.scot/procurement-strategy-annual-procurement-report) set out in the 2014 Act.

# How you can buy from Supported Businesses

Buyers should conduct market research as part of their sourcing strategy to determine whether their particular regulated procurement exercise is suitable to be tendered under reserved contract procedures. There are a number of ways in which a buyer might go about doing so.

For example, the advertising portal, [Public Contracts Scotland (PCS)](https://www.publiccontractsscotland.gov.uk/), alerts buyers to the existence of supported businesses that could possibly deliver their contract. When contracting authorities enter the commodity they wish to purchase, the portal will highlight supported businesses which could potentially meet that requirement.

The Scottish Government has established a [Supported Businesses Dynamic Purchasing System](https://www.gov.scot/publications/procurement-requirements-reserved-for-supported-businesses-dynamic-purchasing-system/) (DPS) to underpin reserving contracts, continuing to provide Scottish public sector and third sector bodies with a route to market for a range of goods and services provided by supported businesses. The DPS replaces our national framework for commodities reserved for supported businesses which expired in July 2023. The DPS approach ensures that supported business suppliers have equal opportunity to access public sector contracts by using minimal selection criteria to join.

The [requirements reserved for supported businesses DPS](https://www.gov.scot/publications/procurement-requirements-reserved-for-supported-businesses-dynamic-purchasing-system/) webpage provides an up-to-date list of all the supported businesses on this DPS, with details of the goods and services each supported businesses offer to the market, along with contact details of each supported business. The webpage also includes a list of supported business which are not on the DPS.

It is important to note that both PCS and the aforementioned list of supported businesses which are not on the DPS rely on organisations self-declaring whether they meet the definition and therefore do not constitute evidence in their own right that a supplier is a supported business in terms of the legislation. Buyers will need to conduct their own due diligence to satisfy themselves the definition has been met.

# Case studies

[Talking “sustainable change” and supplying the public sector with Hey Girls](https://blogs.gov.scot/public-procurement/2021/11/30/talking-sustainable-change-and-supplying-the-public-sector-with-hey-girls/)

# Resources

Enhanced information in [the Procurement Journey](https://www.procurementjourney.scot/) on the processes that support how public sector buyers can reserve procurement activity to supported businesses is underway. Work on the third sector and supported business data from supplier finder on Public Contracts Scotland (PCS) is underway to facilitate search functionality improvements.

# Further information

The current number of supported businesses on the DPS has been built by working closely with [BASE Scotland](https://www.base-uk.org/home) to understand the supported business market, with the Scottish Council for Voluntary Organisations ([SCVO](https://scvo.scot/)) and the [TSI Scotland Network](https://tsi.scot/) and by market development in response to public sector buyers need.

If any public body has noted an organisation, you think may be a supported business, or you are unsure if an organisation you are considering a future purchase from may be a supported business, please contact ScottishProcurement@gov.scot

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Currently the supported business suppliers listed on the DPS provide the following goods and services:

* records management, document scanning and EDMS (Electronic Document Management System) solutions and print
* outdoor clothing and workwear, Personal Protective Equipment (PPE) and uniforms
* the supply of kitchens
* office and educational furniture, soft furnishings
* road signs, rail signs, commercial signs, engraved signs
* mattress and bedding products
* IT asset disposal and WEEE (Waste Electrical and Electronic Equipment) recycling
* laundry services
* catering services and cooking training
* door supervision, security guarding, and public space CCTV, training and security solutions