

Date Issued	December 2016
Department	Corporate
Title	Procurement Strategy
Objective	To ensure we comply with the requirements of the Procurement (Scotland) Act 2014, the Procurement (Scotland) Regulations 2015 and the Procurement (Scotland) Regulations 2016
Responsible	Director of Asset Management
Next Review Date	December 2021

1.0 Introduction

Purpose of this strategy

- 1.1 This strategy aims to equip East Lothian Housing Association (ELHA) and its subsidiaries with the direction required to continue achieving the overarching goals of attaining value for money and being able to demonstrate adequate governance and accountability in relation to the expenditure of Association funds. This strategy covers the period to 31 December 2017 at which time it will be reviewed.
- 1.2 ELHA is a 'Contracting authority' for the purposes of the Procurement Reform (Scotland) Act 2014 ("the 2014 Act") and the Public Contracts (Scotland) Regulations 2015 ("the 2015 Regulations") and the Public Contracts (Scotland) Regulations 2016 ("the 2016 Regulations") These specify the procedures which the Association must follow when procuring supplies, services and works.
- 1.3 In broad terms all Association procurement requirements for services and supplies above £50,000 in value and all Association procurement requirements for works above £2 Million shall now be 'regulated contracts' for the purposes of the 2014 Act. Where a contracting authority has a likely annual spend of more than £5m on regulated contracts, the 2014 Act obliges it to prepare and publish an annual procurement strategy. As ELHA anticipates that it will have such an annual spend in this and future financial years, this Strategy aims to fulfil this obligation.

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1.4 The objectives of this Strategy are to:

- Achieve better efficiency, savings and value for money (in terms of quality and cost)
- Add value for our customers, their communities and the wider local economy
- Comply with legislation and regulatory requirements

Impact of strategy

1.5 Implementation of the various actions required by this Strategy will evidence that the Association is actively compliant both with legislative requirements and also with best practice in respect of its procurement activities. Once implemented, the actions required under this strategy will demonstrate ELHA's commitment to ensuring transparency, equal treatment, non-discrimination and proportionality in all its regulated procurement activities.

1.6 The adoption of this strategy will also serve to build upon and enhance the Associations existing procurement capacity and capabilities.

1.7 The policies and procedures deriving from this Strategy will highlight the concept of value for money in procurement being an informed choice of the Association between cost, quality and sustainability by delivering on the key priorities of:

- a) Maximising efficiency and collaboration
- b) Delivering and demonstrating real cash savings across the organisation
- c) Improving access to Association contracts – particularly for Small and Medium size Enterprises (SME's)
- d) Embedding sustainable procurement within the Associations procurement strategy. This means that before carrying out any regulated procurement, the Association will consider how in the procurement process it can:
 - i. Improve the economic, social and environmental wellbeing of the locality in which we operate
 - ii. Facilitate the involvement of SMEs, other third sector bodies and supported businesses in the process
 - iii. Promote innovation

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Interaction with Policy

- 1.8 The Association has an existing procurement policy which is aimed primarily at operational staff who require day to day guidance on how the Association can comply with procurement rules. This Strategy aims to provide a higher-level overview of the Association's approach to procurement and to satisfy its obligations under the 2014 Act to publish a procurement strategy.

2.0 Strategy

The 2014 Act requires that the Strategy demonstrates compliance with the following;

2.1 **How the Association will ensure that its regulated procurements will contribute to the carrying out of its functions and achievement of its purposes.**

2.1.1 ELHA staff will always consider the Association's functions, this Strategy and the Procurement Policy at the outset of, and during, any procurement activity.

2.1.2 The Association will aim to engage in effective and relevant consultation throughout the life of this Strategy.

2.1.3 The Association will aim to engage in effective contract and economic operator management to monitor the effectiveness of regulated procurements.

2.1.4 The Association will, if appropriate, consider joint procurement.

2.1.5 The Association will engage, if appropriate, in relevant community and stakeholder consultation during procurement exercises.

2.1.6 The Association will use clear outcomes in contract notices.

2.2 **How the Association intends to ensure that its regulated procurements will deliver value for money.**

2.2.1 ELHA staff will always consider the Association's functions, this Strategy and the Procurement Policy at the outset of, and during, any procurement activity.

2.2.2 The Association will consider the balance of value for money on a case by case basis, while ensuring consistency and transparency in procurement exercises.

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2.2.3 The Association will, where appropriate, consider the whole-life cost of each procurement, in a clear, transparent and proportionate manner.

2.2.4 The Association will use appropriately, the flexibility afforded to the Association by the value for money concept in order to consider priorities that are relevant to the Association's particular area and the particular procurement, and align these with the Association's overall policy objectives.

2.3 How the Association intends to ensure that its regulated procurements will be carried out in compliance with its duty to treat relevant economic operators equally and without discrimination.

2.3.1 ELHA staff will always consider the Association's functions, this Strategy and the Procurement Policy at the outset of, and during, any procurement activity.

2.3.2 The Association will ensure that the following principles are applied in all procurements, regardless of value.

2.3.3 The Association will, where appropriate, ensure early market engagement prior to the publication of a contract notice.

2.3.4 The Association will use clear and precise language in all procurement documentation to allow all "reasonably well-informed and normally diligent tenderers" to interpret it in the same way.

2.3.5 The Association will, if appropriate, use standard pre-qualification European Single Procurement Documents (ESPD).

2.3.6 The Association will, if appropriate, always consider contract size, including the opportunity to break contracts into smaller lots.

2.3.7 The Association will state the Association's desired outcomes using clear and precise language without stating how they should be achieved.

2.4 How the Association intends to ensure that its regulated procurements will be carried out in compliance with its duty to act in a transparent and proportionate manner.

2.4.1 ELHA staff will always consider the Association's functions, this Strategy and the Procurement Policy at the outset of, and during, any procurement activity.

2.4.2 The Association will, if appropriate, use electronic communication for procurement activity, and in particular the Public Contracts Scotland (PCS) website.

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2.4.3 The Association will, if appropriate, engage in open public and market engagement.

2.4.4 The Association will use clear and precise language preventing broad interpretation.

2.4.5 The Association will use inclusive and known award criteria which is not overly burdensome.

2.5 **How the Association intends to ensure that its regulated procurements will be carried out in compliance with the sustainable procurement duty?**

2.5.1 ELHA staff will always consider the Association's functions, this Strategy, the Association's Procurement Policy at the outset of, and during, any procurement activity.

2.5.2 The Association will always have regard to the Sustainable Procurement Duty Statutory Guidance as published by the Scottish Government in respect of regulated procurements.

2.5.3 The Association will consider and if appropriate use, the tools provided by the Scottish Government in relation to the sustainable procurement duty e.g. the Scottish prioritisation tool, life-cycle mapping, sustainability test and the Scottish flexible framework.

2.6 **The Association's general policy on the use of community benefit requirements.**

2.6.1 The Association will, if appropriate, include contractual requirements in relation to community benefits where these are in line with the Association's objectives.

2.6.2 ELHA staff will always consider the Association's functions, this Strategy and the Procurement Policy at the outset of, and during, any procurement activity.

2.6.3 The Association will always have regard to the Community Benefits Statutory Guidance in respect of contracts with an anticipated value of more than £4m.

2.6.4 In respect of contracts with an anticipated value of more than £4m, the Association will consider the inclusion of community benefit clauses, such as contractual requirements relating to training and recruitment, the availability of sub-contracting opportunities or measures otherwise intended to improve the

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economic, social or environmental wellbeing of the area within which the Association operates, in a way which is additional to the main purpose of the contract in which the requirement is included.

2.6.5 In respect of contracts with an anticipated value of more than £4m, the Association will provide a summary of the community benefit contracts the Association intends to include as award criteria or a statement of the Association's reasons for not including any such requirement.

2.6.6 In respect of contracts with an anticipated value of less than £4m, the Association will consider whether, despite there being no legal obligation to consider community benefit clauses, it would be appropriate to include these.

2.7 The Association's general policy on consulting and engaging with those affected by its procurements.

2.7.1 ELHA staff will always consider the Association's functions, this Strategy and the Procurement Policy at the outset of, and during, any procurement activity.

2.7.2 The Association will carry out appropriate consultation prior to the adoption of each of its future procurement strategies.

2.7.3 If appropriate, the Association will consult and engage with relevant stakeholders in the context of individual procurement exercises. Such consultation and engagement will comply with the principles set out in the National Standards for Community Engagement.

2.8 The Association's general policy on the payment of a living wage to persons involved in producing, providing or constructing the subject matter of regulated procurements.

2.8.1 The Association recognises the importance of payment of a living wage by the Association's suppliers and will consider how it can work towards payment of a living wage to persons involved in producing, providing or constructing the subject matter of regulated procurements.

2.9 The Association's general policy on promoting compliance by contractors and sub-contractors with the Health and Safety at Work etc. Act 1974 and any provision made under the Act.

2.9.1 ELHA staff will always consider the Association's functions, this Strategy and the Procurement Policy at the outset of, and during, any procurement activity.

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- 2.9.2 The Association will engage in assessment of potential health and safety risks arising from particular contracts and consideration of how it will monitor contracts to ensure compliance with health and safety requirements, including how an economic operator demonstrates compliance.
- 2.9.3 The Association will ensure that any measures the Association takes to ensure the promotion and compliance of health & safety requirements in its procurements are relevant, proportionate and not overly burdensome, and meet current legislation as a minimum. The degree to which health and safety requirements are specified within procurement documents will vary according to the goods, services or works being purchased and the Association will therefore consider these on a case by case basis.
- 2.9.4 If there are specific health and safety concerns in relation to a particular procurement, the Association may require an economic operator to detail the measures they would implement to respond to the identified risks.
- 2.9.5 The Association will consider whether it is appropriate to require economic operators to provide evidence demonstrating all levels of the supply chain act in compliance with relevant health and safety regulations; and provide details of how they actively promote and manage good health and safety practice, such as through training and the communication of relevant information to staff.
- 2.10 The Association's general policy on the procurement of fairly and ethically traded goods and services.**
- 2.10.1 ELHA staff will always consider the Associations functions, this Strategy and the Procurement Policy at the outset of, and during, any procurement activity.
- 2.10.2 In regulated procurements, if relevant, the Association will consider how, by including fair and ethical requirements, the Association can promote fairness, dignity and the rights of workers and producers.
- 2.10.3 The Association will, if appropriate, include fair and ethical trading requirements in contract award criteria, where relevant and proportionate, subject always to the requirements of the 2014 Act and supporting Regulations.
- 2.10.4 So as not to discriminate against any economic operators, to maintain transparency and to promote competition and innovation, the Association will, if appropriate, accept all labels which have equivalent standards and bids from economic operators that meet the specified criteria without certification.

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2.11 The Association's general policy on how it intends to approach regulated procurements involving the provision of food to improve the health, wellbeing and the education of communities in the Association's area; and promote the highest standards of animal welfare.

2.11.1 The Association procures a very limited amount of food catering and does not expect to carry out any regulated procurement in this regard.

2.12 How the Association intends to ensure that, so far as reasonably practicable, the following payments are made no later than 30 days after the invoice (or similar claim) relating to the payment presented:

a) payments due by the Association to a contractor

b) payments due by a contractor to a sub-contractor

c) payments due by a sub-contractor to a sub-contractor

2.12.1 ELHA staff will always consider the Association's functions, this strategy and the Procurement Policy at the outset of, and during, any procurement activity.

2.12.2 The Association will comply with late payment legislation.

2.12.3 The Association will comply with SPPN 8/2009 which sets out the Scottish Government's policy and approach to ensuring prompt payment as part of its procurements and the Association will ensure that its contracts include appropriate clauses in relation to prompt payment.

2.12.4 The Association will aim to ensure effective contract management and monitoring throughout the term of its contracts to ensure that prompt payment continues to be applied throughout the duration of the contract, e.g. by requesting information on prompt payment at all levels of the contract and the Association will, where relevant, aim to take any necessary steps to rectify any prompt payment issues experienced.

2.12.5 The Association may, if relevant, consider monitoring the prompt payment of sub-contractors by carrying out spot checks and/or using project bank accounts or trusts, when relevant and appropriate. The Association may also, if relevant, consider obliging contractors and sub-contractors to declare any claims for late payment.