

Loreburn Group

# Procurement & Value For Money Policy



**Creating Great Places to Live**

<b>Policy</b>	Procurement & Value For Money									
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## 1. Purpose

- 1.1. The policy covers Loreburn H A Group (thereafter referred to as LHA) procurement process for commissioning all services, goods, supplies and works by all departments to achieve the aims and outcomes as set out in the procurement and value for money strategy.
- 1.2. The six key things to take away from this document are;
  - 1) Ensure that the procurement route chosen is correct for the value of the contract to comply with statutory and regulatory requirements.
  - 2) All contracts for all levels are arranged to include opportunities for use of local suppliers, micro, small and medium enterprises and the third sector.
  - 3) All regulated contracts contain a community benefit clause that forms part of the tender assessment.
  - 4) All contracts are tendered with a detailed specification which tells the supply base in clear terms what it is we are looking to procure and come with a robust set of KPI's on how performance against this specification will be monitored.
  - 5) Consultation is undertaken with customers for any contracts where the goods/services or works directly or indirectly affects them.
  - 6) A purchase order or works order is raised for all goods/service and works being procured (where practically possible)
- 1.3. The term 'supplier' as used in this policy will be deemed to include the supply of all services, goods, supplies or works, including contractors and consultants.
- 1.4. All procurement undertaken by LHA must have regard to the vision and mission of LHA's procurement and value for money strategy and the values, objectives and goals of the LHA business.
- 1.5. This Policy must be interpreted in accordance with fundamental general principles of equal treatment, non-discrimination, transparency and proportionality.
- 1.6. All LHA employees shall comply with the terms of this policy. Failure by any employee to comply with the terms of this policy may result in disciplinary action.
- 1.7. This policy may be suspended either in whole or in part by a decision of the governing body in respect of the proposed award of any contract upon the joint recommendation of the Chief Executive or other members of the Executive team, if they have delegated responsibility for the policy and the Convenor, provided there are special circumstances justifying the suspension.
- 1.8. Any query regarding the application or interpretation of this policy should be made in the first instance to the Policy Champion.

## 2. Legislative Background and Guidance

- 2.1. Legislative Background

The Scottish Government continues to promote a national programme of public sector procurement reform to drive continual improvement in procurement practice. The legislative requirements which bind public procurement practice in Scotland are:

- EU Directive 2014/24
- The Procurement Reform (Scotland) Act 2014
- Public Contracts (Scotland) Regulations 2015
- Procurement (Scotland) Regulations 2016

## 2.2. The Scottish Housing Regulator

The Scottish Social Housing Regulatory Framework Standard 1 states *the governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.*

## 3. **Aims of the policy**

3.1. The aims of this policy are to:

- Achieve the best value outcome for all unregulated and regulated procurement throughout the LHA business.
- Ensure clarity through transparency and accountability at all stages of the procurement process, including public advertising of contracts,
- Ensure compliance with statutory legislation and guidance, in the carrying out of any procurement activity, and
- Achieve the procurement and value for money strategic aim, objectives and ambitions.

3.2. In order to achieve the aims of this policy LHA will ensure the following objectives are met:

- LHA is able to demonstrate that value for money has been achieved, both in the commissioning of individual contracts, and as an organisation as a whole.
- Ensure that all Suppliers appointed are sufficiently competent, have sufficient resources and are committed to improving the service provided to customers.
- LHA is committed to protecting the health and safety of our employees, customers, members of the public and suppliers' employees.
- Suppliers are challenged to come up with new innovative ideas in the delivery of services to our customers.
- LHA is committed to improving equalities, and the economic prosperity of the communities in which we work.
- Customers views are used to help shape the specification requirement and supplier appointments.
- All suppliers are treated equally. Information from them is held security and in confidence and we are transparent with them during all aspects of the procurement process.
- Ensure that procurement accords with the requirements of the Groups policy in respect of payments and benefits.

- Explore opportunities to jointly procure services on a collaborative basis with colleagues in other local registered social landlords and related organisations; and
- Ensure that LHA makes best use of the commissioning process and that there is sufficient flexibility to ensure expenditure can be increased and decreased as necessary within the financial year.

#### 4. Related Policies and Procedures

- 4.1. This policy should be read in conjunction with the following LHA policies and procedures:
- Financial Regulations,
  - Entitlements Payments and Benefits Policy.
  - Contract Management
- 4.2. In the event of any conflict or inconsistency between the terms of this policy and any provisions in any of the above policies relating to public procurement of contracts, this policy shall take precedence.

#### 5. Procurement Process

- 5.1. When procuring contracts for goods, services or works, LHA must comply with the Public Contracts (Scotland) Regulations 2015 (“the Regulations”) and the Procurement Reform (Scotland) Act 2014 (“the Act”).
- 5.2. LHA is subject to a two-tier procurement regime, in terms of which the Regulations will apply to contracts with a value which meets or exceeds the relevant EU thresholds (£189,330 for supplies or services and £4, 733,252 for works) and the Act will apply to contracts with a value below such EU thresholds but with a value which is equal to or greater than the thresholds set out in the Act (£50,000 for supplies or services and £2,000,000 for works).
- 5.3. The EU procurement thresholds values change every 2 years and the table below lists updated contract value thresholds that Contracting Authorities (Housing Associations) must follow for all European procurement procedures from 1 January 2020. More info can be found on Scottish Government website <http://www.gov.scot/Topics/Government/Procurement/policy/10613>

<b>Contracting Authorities</b>	<b>Public Contracts Type</b>	<b>New Threshold (net of VAT)</b>
Central government bodies	Supplies or Services	<b>£122,976</b>
Other contracting authorities (e.g. HA, RSL, LA etc)	Supplies or Services	<b>£189,330</b>
All Contracting Authorities	Works	<b>£4,773,252</b>
	“Light Touch Regime” services	<b>£663,540</b>
	Small lots / Supplies	<b>£70,778</b>

	or Services	
	Small lots / Works	<b>£884,720</b>

### Scottish Procurement Thresholds

Contracting Authorities	Public Contract Type	Threshold (net of VAT)
All Contracting Authorities	Supplies or Services	<b>£50,000</b>
	Works	<b>£2,000,000</b>

- 5.4. The procedure for the award of any contract depends upon the estimated value of that contract. The relevant threshold values and the associated procurement procedure that must be applied are detailed in the procurement procedure document.
- 5.5. The route chosen will be clearly documented by staff and a record retained as to how the value of the contract and route selected were chosen.
- 5.6. Support for all procurement activities can be found via the Scottish Governments Procurement journey;  
<https://www.procurementjourney.scot/node>
- 5.7. The Procurement Journey is intended to support all levels of procurement activities and to help manage the expectations of stakeholders, customers and suppliers alike and facilitates best practice and consistency across the Scottish public sector.

## 6. Regulated Procurements under the Public Contracts (Scotland) Regulations 2015 - OJEU Threshold

- 6.1. The above types of contract must be advertised in the Official Journal of the European Union (“OJEU”) and publicly procured in accordance with the one of the defined procedures set out in the Regulations, which will include a formal standstill period before a contract can be entered into with the successful tenderer.
- 6.2. Certain categories of services are exempt from the full terms of the Regulations. In addition, certain contracting arrangements are exempt from the terms of the Regulations and such arrangements do not need to be publicly procured – please see section 10 of this Policy for further detail on procurement of these types of contract.
- 6.3. Any procurement which is subject to the terms of the Regulations must comply with general principles of:
- transparency – contract procedures must be transparent and contract opportunities should be publicised;
  - equal treatment and non-discrimination – potential suppliers must be treated equally;
  - proportionality – procurement procedures and decisions must be proportionate; and

- mutual recognition – giving equal validity to qualifications and standards from other Member States, where appropriate.

6.4. Contracts under these Regulations will be awarded based on the "most economically advantageous tender" (MEAT).

6.5. The "most economically advantageous tender" means the tender offer that is most economically advantageous from LHA's point of view having regard to the subject matter of the contract and including matters such as:

- quality;
- price;
- technical merit;
- aesthetic and functional characteristics;
- environmental characteristics;
- running costs;
- cost effectiveness;
- after-sales service;
- technical assistance;
- delivery date; and
- delivery period or period of completion

(all as may be considered appropriate in relation to any particular contract).

6.6. LHA will comply with the Regulations on these contracts which ensures contracts cannot be awarded based on lowest price only and must be awarded on a mix of price and quality.

6.7. Loreburn will also comply with the requirements under the Regulations not artificially split a contract to avoid the application of the Act and/or the Regulations (e.g. a single requirement for services with a value of £200,000 cannot be the subject of two separate contracts of £100,000 each).

Where a proposed contract is "mixed", e.g. if it contains both works and services / supplies or services and supplies, the contract will be classified according to the main subject of the contract and then the largest subject value.

6.8. If the mixed contract comprises both services and supplies, or services covered by both the main regime and services covered by the Light Touch Regime (please see section 9 of this Policy), the main subject of the contract is determined by reference to which part of the contract has the greater value.

6.9. Although not mandatory for building projects Loreburn will write into the tender documents that we will require a project bank account to be set up where the



contract value is greater than £2m. This is to ensure the continued payment of subcontractors as part of the contract.

- 6.10. A guidance note has been included in the procedure document to assist LHA staff in determining which statutory requirements apply to a particular procurement.

## **7. Procurement Reform (Scotland) Act 2014 – Regulated procurement threshold to OJEU Threshold**

- 7.1. The Act applies to the following types of contract:
- contracts for goods or services with an estimated value of between £50,000 and £181,302 (excluding VAT); and
  - contracts for works with an estimated value of between £2,000,000 and £4,551,403 (excluding VAT).
- 7.2. Such contracts must be advertised on the Public Contracts Scotland website and publicly procured in accordance with the terms of the Act, which imposes general obligations on contracting authorities to treat economic operators equally and without discrimination and to act in a transparent and proportionate manner.
- 7.3. Any procurement which is subject to the terms of the Act must comply with general principles of:
- transparency – contract procedures must be transparent and contract opportunities should generally be publicised;
  - equal treatment and non-discrimination – potential suppliers must be treated equally; and
  - proportionality – procurement procedures and decisions must be proportionate.
- 7.4. Requirements under the Act cannot be artificially split to avoid the application of the Act (e.g. a single requirement for services with a value of £50,000 cannot be the subject of two separate contracts of £25,000 each).
- 7.5. Where a proposed contract is “mixed”, e.g. if it contains both works and services / supplies or services and supplies, it should be classified according to the main subject of the contract and then the largest subject value.
- 7.6. A guidance note has been included in the procedure document to assist LHA staff in determining which statutory requirements apply to a particular procurement.

### **Specific statutory duties under the Act**

- 7.7. There are a number of specific statutory duties under the Act which will apply to the procurement of any contracts which are subject to the terms of the Act or the Regulations.
- 7.8. The principal statutory duties under the Act are as follows:

- The Sustainable Procurement Duty
- Annual Procurement Strategy
- Contracts Register
- Community Benefit requirements

### The Sustainable Procurement Duty

- 7.9. LHA must consider, before starting a procurement competition, how, by the way in which it conducts the procurement process, it might improve the economic, social and environmental well-being of the authority's area, how it might facilitate the involvement of small and medium enterprises, third sector bodies and supported businesses and to consider how it can promote innovation.
- 7.10. Having considered and identified how these aims might be achieved, the Act requires LHA to conduct its procurements in a way designed to secure the improvements identified.
- 7.11. The procurement being undertaken should also ensure that we are undertaking fair and ethically traded goods and services.

### Annual Procurement Strategy

- 7.12. The Act requires LHA to prepare and publish an annual procurement strategy for each year in which it considers its total expenditure on regulated procurements will exceed £5,000,000.
- 7.13. On an annual basis LHA will prepare a Procurement Strategy even it is below the £5m threshold.
- 7.14. This will contain, as a minimum, information on how expected 'Regulated Procurements':
- Are being undertaken in compliance with EU Treaty Principles of equal treatment, non-discrimination, transparency, proportionality and mutual recognition.
  - Are being undertaken in compliance with the sustainable procurement duty.
  - How procurements will help achieve LHA's purposes and value for money;
  - LHA's general policy on community benefits, consulting and engaging with stakeholders, payment of living wage by suppliers, promoting health and safety compliance by suppliers, etc; and
  - How LHA will ensure suppliers are paid (and pay their sub-contractors) within 30 days of invoice.

The review will be completed by the Head of Finance and Procurement, assisted by departmental Heads of Service as required, and circulated to the Executive Management Team for consideration before being presented to the Management Committee for approval.

- 7.15. If it is obliged to prepare an annual procurement strategy, LHA must also prepare an annual procurement report. As with the Strategy, annual report will be prepared regardless.

- 7.16. It will be the responsibility of the Head of Finance and Procurement to submit the annual report to the Scottish Government.
- 7.17. The report will include:
- A summary of the regulated procurements that have been completed during the year covered by the report
  - A review of whether those procurements complied with the organisation's procurement strategy
  - The extent to which any regulated procurements did not comply, and a statement detailing how the organisation will ensure that future regulated procurements do comply
  - A summary of community benefit requirements imposed as part of a regulated procurement that were fulfilled during the year covered by the report
  - A summary of any steps taken to facilitate the involvement of supported businesses in regulated procurements during the report period
  - A summary of regulated procurements expected to commence in the next two financial years
- 7.18. Although there is no deemed date for submission LHA will strive to report this as soon as practically possible after the financial year end.
- 7.19. LHA has chosen to complete the Strategy and annual report regardless of whether it is required to or not as it feels that this in line with the principles at Section 7.3.

### Contracts Register

- 7.20. LHA must keep and maintain a contract register which must include details of all contracts entered into by LHA following a regulated procurement under the Act. This will be managed by the Head of Finance and Procurement. In relation to each contract, the contracts register must contain the following information:
- the date of award;
  - the name of the contractor;
  - the subject matter of the contract;
  - the estimated value of the contract;
  - the start date of the contract;
  - the end date provided for in the contract (disregarding any option to extend the contract) or, where there is no date specified, a description of the circumstances in which the contract will end;
  - the duration of any period for which the contract can be extended.
- 7.21. LHA may delete an entry in its contracts register only after the contract to which it relates has expired or been terminated.

- 7.22. LHA must make the information contained in its contracts register publicly available on the internet via PCS and by such other means as it considers appropriate. In LHA's case this will be on the website.
- 7.23. LHA may withhold an entry or part of an entry in the contracts register if it considers that making it publicly available would:
- impede law enforcement or otherwise be contrary to the public interest;
  - prejudice the commercial interests of any person; or
  - prejudice fair competition between economic operators.
- 7.24. LHA will hold all of its contracts in a designated team's folder within Microsoft Teams in Office 365 that will be available for anyone in the organisation to view (unless sensitive information is contained in which case the contract will sit with the Policy Champion).
- 7.25. As part of the contract register regular supplier review meetings will be noted and monitored to ensure contract KPI's are being adhered to and where not, ensure action is being taken to address this.

#### Community Benefit Requirement

- 7.26. All regulated contracts must contain a community benefit clause which forms part of the assessment of the tender.
- 7.27. The procedural document supporting this policy provides an example of how this will be carried out. However, some of the key community benefits we seek are;
- Employment/Apprenticeship opportunities
  - Sponsorships of local events
  - Mentoring opportunities
  - Financial support for community properties
  - Support for local projects

#### Other Statutory Duties

- 7.28. Although not a requirement of the Act or the Regulations LHA imposes other duties on itself which must be adhered to with regards to regulated procurement;
- We must consult and engage with customers where they will be directly or indirectly affected by the procurement being undertaken.
  - All contractors and sub-contractors must comply with and show evidence of compliance with Health and Safety at Work Act 1974 and any provision made under the Act. Compliance must form part of the quality assessment when assessing a tender – see Section 14. Where the contractor is for property repairs we will only accept

tenders if they are CHAS registered or a similar scheme (ie Construction Line).

- The payment of a Living Wage to persons involved in producing, providing or constructing the subject matter of the procurement.
- The supplier must have the adequate level of insurance cover for the goods/services/works being procured. The expected levels for particular purchases are included in the procedure document to this policy.
- Loreburn's Terms and Conditions must be issued to the supplier at the beginning of the procurement activity.

## 8. Unregulated Procurement

- 8.1. Contracts with an estimated value below the thresholds set out in the Regulations and the Act do not require to be procured in accordance with the terms of the Regulations or the Act but must be procured in accordance with the requirements of this section of this policy.
- 8.2. Contracts with an estimated value below the above prescribed thresholds do not need to be advertised in OJEU or publicly procured in terms of the Regulations but contracting authorities must, ensure a degree of advertising and follow a procedure leading to the award of the contract which is sufficient to enable open competition and comply with general principles of equal treatment, non-discrimination, transparency and proportionality.
- 8.3. The non-statutory duties in section 7.28 must be adhered to when carrying out an unregulated procurement.
- 8.4. For unregulated procurement purchases Loreburn's policy, as stated in the financial regulations, requires the following:

Estimated Cost	Procedure
Up to £10,000	Best value, based on knowledge, experience and such comparatives as may be available based on figures and using at least 1 quote.
£10,000 - £25,000	2 quotations.
£25,001 - £50,000	3 quotations.

- 8.5. The above policy is applicable to all procurement under £50k, however work contracts can be unregulated up to £2m.
- 8.6. Where the purchase has deemed to be works Loreburn's policy, as stated in the financial regulations, requires the following procedures:

Estimated Cost	Procedure
£50,000 – EU Threshold	Tender invitations.

- 8.7. In this case above we should seek at least 3 tender returns to ensure we are achieving value for money.
- 8.8. Where practically possible, we should tender for unregulated goods/services/works through Quick Quotes on Public Contracts Scotland.

## 9. Regulated Procurements under the Light Touch Regime under the Public Contracts (Scotland) Regulations 2015

- 9.1. The "Light Touch Regime" is a specific statutory regime under the Regulations which applies to certain types of services contracts for social, health, healthcare and certain other services, which are listed in Schedule 3 to the Regulations.
- 9.2. Different procurement procedures apply to procurement of the relevant types of contract covered by the Light Touch Regime, depending on their value.

### Light Touch Regime contracts valued at or above the EU threshold

- 9.3. Where a relevant service contract is valued at or above the EU threshold of £589,000, LHA must:
- publish a Contract Notice or Prior Information Notice (PIN) if used as a call for competition on Public Contracts Scotland for onward transmission to the OJEU;
- 9.4. Publish a Contract Award Notice (these can be grouped quarterly);
- Apply reasonable and proportionate time limits to any stages of the procurement; and
  - Assess successful bidder(s) to identify any instances where mandatory exclusion grounds may apply.
- 9.5. There is no set procedure laid down for the conduct of procurement processes under the Light Touch Regime other than the requirements above general requirements and LHA has a degree of discretion to use the tools, techniques and procedures of their choice when following the Light Touch Regime.
- 9.6. Accordingly, the approach to procurement of contracts under the Light Touch Regime may be determined on a case by case basis, provided that, in each instance, the procedure adopted is proportionate and appropriate to the scale and type of procurement process being conducted.
- 9.7. As a minimum requirement, the procedure adopted should cover essential information such as timescales, evaluation methodology and any scope for change / change management procedures.
- 9.8. It must be developed in line with any internal governance requirements and in accordance with the principles of transparency and equal treatment. Any award of a contract under the Light Touch Regime must be made on the basis of the "most economically advantageous tender" and not based on price alone.

### Light Touch Regime contracts valued below the EU threshold

- 9.9. Where a relevant service contract is valued below the EU threshold of £589,000, but its value is at least £50,000, LHA has discretion to directly award a contract without undertaking any form of public procurement exercise.
- 9.10. If LHA chooses to undertake some form of public procurement exercise, then this exercise should be undertaken in accordance with the terms of the Act.
- 9.11. LHA must publicise the award of any Light Touch Regime contracts valued below the EU threshold on Public Contracts Scotland and must include these contracts in its contracts register.

## **10. Frameworks**

- 10.1. Rather than conducting a stand-alone procurement procedure in respect of a requirement, LHA will consider procurement through a framework agreement.

### **What is a framework agreement?**

- 10.2. A framework agreement is an 'umbrella agreement' that sets out the terms (particularly relating to price, quality and quantity) under which individual contracts ("call-offs") can be made throughout the period of the agreement (which will be a maximum of 4 years).
- 10.3. Framework agreements can be set up for one contracting authority to use or can be set up for a number of contracting authorities to use.
- 10.4. LHA may set up its own framework agreements or it could explore in relation to a particular requirement, whether there is an existing framework agreement put in place by another contracting authority under which LHA is entitled to draw down the required supplies, services or works.
- 10.5. Where LHA sets up its own framework agreement (or partnering agreement if using its subsidiary company) the Board must approve this prior to the framework (or partnering agreement) being tendered.
- 10.6. Pre-procured frameworks which LHA may be able to access include frameworks established by Scottish Procurement Alliance (SPA), Procurement for Housing and the Scottish and UK Governments.
- 10.7. Framework agreements are either concluded with a single supplier or with multiple suppliers. Often, framework agreements are split into lots.
- 10.8. In line with the Financial Regulations, all frameworks used must be approved by the Management Committee.

### **Advantages of framework agreements**

- 10.9. If framework agreement has been properly concluded further to compliant procurement procedure, LHA does not require following the full OJEU procedure in respect of each requirement which is the subject of a call-off, thus reducing costs and timescales. There are also potential benefits of economies of scale.

### **Potential disadvantages of framework agreements**

- 10.10. Framework agreements may be relatively unresponsive to change – there may be new suppliers and/or new solutions within the market that were not included when the framework agreement was initially set up.
- 10.11. Framework agreements tend to apply a "one size fits all" approach, which may make it difficult for LHA to satisfy their own procurement objectives through use of a framework agreement which has been procured by a third party and may not have been tailored to LHA's particular requirements.

### **Why Would LHA Consider using a Framework?**

- 10.12. The decision to use a framework should be based on:
- Timescales for requirements – the need to procure goods urgently may necessitate this route.
  - Where the local supply base cannot meet our demand.
  - Where the outcome of our own tender would lead to the appointment of a contract on a framework.
  - Where enough competition exists on a framework between suppliers that would deliver on quality and create a better price.
  - Where the requirements are specialist in nature.

## **11. Exceptions to the requirement to publicly procure a contract**

- 11.1. There are certain exceptional circumstances in which tenders are not required for the procurement of contracts for supplies, services or works which are above the applicable threshold value under the Regulations or the Act, including:
- where the tender may only be awarded to a particular supplier for technical or artistic reasons or where a particular supplier has exclusive rights, including, but not limited to, intellectual property rights, which mean they are the only supplier capable of meeting LHA's requirements;
  - where LHA has already entered into a contract with a supplier and requires additional services or works to be supplied which were not included in the original contract but which, through unforeseen circumstances, have become necessary;



- where LHA wants a supplier with which it already has a contract to provide new works or services which are a repetition of works or services carried out under the original contract and such new works or services were provided for in the original contract notice; or
- where (but only if it is strictly necessary) for reasons of extreme urgency brought about by events unforeseeable by LHA, the time limits for one of the standard procurement procedures cannot be complied with.
- Loan financing, when the procedures are set out in the Treasury Management policy would be applied.

11.2. The above exceptions may only be relied upon in limited circumstances and are subject to a range of specific conditions. **You must obtain the approval of the management committee and obtain appropriate legal advice before relying on any such exception.**

## 12. Renewals, extensions and changes to existing contracts

12.1. A proposed extension, renewal or amendment to an existing contract may be considered equivalent to the award of a new contract if it constitutes a material change.

12.2. If a change to an existing contract has the effect of creating a new contract, LHA may need to undertake a new competitive tender process in accordance with the Regulations or the Act.

12.3. Material changes to a contract are those which demonstrate the intention of the parties to renegotiate the essential terms of the original contract.

Amendments to a contract may be regarded as “material” where they:

- introduce conditions which, had they been part of the initial award procedure, would have allowed for the admission of tenders other than those initially admitted or would have allowed for the acceptance of a tender other than the one initially accepted – in other words, the new conditions would have potentially changed the participants in and / or the outcome of the original procurement process – examples include extensions or price increases;
- extend the scope of the contract considerably to encompass services not initially covered; and / or
- change the "economic balance" in favour of the contractor in a manner not provided for in the terms of the original contract – in other words, they make changes which improve the contractor’s position or alter the balance of risk under the contract in favour of the contractor – examples include extensions or price increases or agreeing to

renegotiate a contract in a way which relieves a contractor of an obligation.

- 12.4. The Regulations restrict LHA's ability to modify publicly procured contracts. If any member of LHA staff is considering modifying any terms of a publicly procured contract, then they must first consult with and obtain the written approval of the Board and, if considered necessary, obtain appropriate legal advice.

### **13. Specification – All Purchases**

- 13.1. In order to achieve a successful outcome when procuring goods, services or works under any procurement route, LHA recognises that the key to success is in the specification it produces to meet its requirements.
- 13.2. Prior to any goods, services or works being procured all LHA staff will create and develop a detailed specification of what is it they require. This will be achieved by:
- Prior engagement with the supply base where possible.
  - Incorporating learnings, both positive and negative, from previous and other organisational tender specifications.
  - Detailed understanding of the area they work in and what it is they are requiring.
  - If the tender will affect the customer, consult with the customer base in terms of what it is they are looking for.
- 13.3. When developing the specification, LHA will always put the requirements of its customers at the forefront of its mind.
- 13.4. In relation to Health and Safety the specification must provide a clear methodology that indicates how Health and Safety considerations will be managed during delivery.
- 13.5. Where the procurement directly impacts the customer, being a service chargeable item, LHA will discuss directly with the customers their requirements and capture this within our specification.
- 13.6. This policy is unable to define what customer consultation looks like as it will vary depending on what is being purchased. The overriding principal that should be followed is one on giving the customer choice to the quality and frequency of goods/services/works being procured.
- 13.7. Where the item being procured is service chargeable our policy is that suppliers will be asked to price on a cost per property for work undertaken with travel costs and overhead costs to be separated out. This will allow us to split these costs equally across all properties receiving the charges to ensure outlying properties are not unfairly charged due to geographical location.
- 13.8. Were the goods, services or works forms part of an existing contract LHA will make no assessment if TUPE applies. It will be noted in the specification

documents that all bidders will make themselves aware of any TUPE liabilities as a result of the contract.

#### **14. Selection & Award Criteria – Regulated Contracts**

- 14.1. Under the regulated procurement requirements, all tenders will be assessed by LHA using a selection and award criteria, as stated in the contract notice.
- 14.2. The selection process sets the grounds for excluding the supplier from the process. LHA will ensure all mandatory exclusions grounds are included as well as the relevant discretionary exclusion grounds.
- 14.3. As part of the selection process all suppliers should be asked for the last three years annual accounts. These should be passed to the Director of Finance and Corporate Services to ensure that all companies have sufficient financial capacity to undertake the contract. This financial assessment is not deemed necessary for unregulated spends of less than £25k for goods and services.
- 14.4. Mandatory exclusion grounds will be included on Health and Safety compliance. A supplier must evidence Health and Safety compliance performance over the last three years.
- 14.5. The specification should be linked to the Award Criteria that is to be chosen. The award criteria relate to our specific requirements and must be relevant to the subject matter of the contract and not discriminatory.
- 14.6. The award criteria will be based on a mix of qualitative and cost criteria. This policy is unable to define the percentage mix of this as it will vary from purchase to purchase. As a rule of thumb, we would aim to score the award criteria section 60% on the quality of the tender and 40% on the price.
- 14.7. Included within the award criteria, LHA will always ensure that the supplier's methodology and approach proposal include how they will comply with H&S requirements.  
  
The quality question in relation to the methodology and approach proposed and how these will comply with Health and Safety requirements must always include a weighting that places at least 25% of the quality marks available on this. Health and Safety is vital in tender and ensuring a sufficient amount of appropriate marks is allocated to this will ensure H&S risk is reduced
- 14.8. LHA will ensure that community benefit questions are included at all times. In line with our strategic objectives LHA wants to ensure that local labour is utilised as much as practically possible and that the communities we serve benefit from our procurement. As part of quality assessment 10% of the marks should be allocated to community benefits and 10% for added value questions.
- 14.9. LHA only wishes to work with suppliers that pay the real living wage. Suppliers will be asked as part of the award criteria that this be confirmed when entering into a contract with us.

## 15. Selection & Award Criteria – Unregulated Contracts

- 15.1. Where the purchase has been assessed as unregulated and over a value of £25k section 14 should be followed in terms of selection and award criteria requirements.
- 15.2. Where the value is below £25k then the selection criteria can be based on price only. However, we must still assess that the supplier complies with Health and Safety legislation and pays the real living wage on a pass/fail basis. Where the contractor is for property repairs we will only accept tenders if they are CHAS registered or a similar scheme (ie Construction Line). LHA staff will run this check themselves as part of the tender process.
- 15.3. With regards to 15.2 a commercial decision can be made with regards to selecting a supplier that is not initially the lowest price. An example of such is where a servicing contract costs more but reactive repair call outs could be less. The servicing contract may be higher but a lower reactive repair call may be beneficial overall. This must be agreed by a member of LHA Executive Team.

## 16. Procurement Project Plan

- 16.1. LHA policy is that the tender process should commence at least 9 months prior to any current contract end date.
- 16.2. Finance will monitor the contracts register for contracts due to expire and contact the relevant department to start the procurement process.
- 16.3. At the start of any regulated procurement process a project scope will be drafted and circulated to those involved and will include;
  - What are we expecting to achieve – clear set of objectives.
  - What the success criteria of the tender is.
  - Identifying things which may get in the way of the success of the tender.
  - Identified and assessed risks; things that may go wrong, how likely are they are to go wrong, what will be done to minimise the risk and what contingency plans will be put in place (ie suppliers in place to maintain service during transition).
  - Who needs to be involved and what tasks they will complete – including if customers need involved.
  - The timing of issuing the tender to ensure maximum number of bids.
- 16.4. The above project scope will be drafted by the person managing the contract (the contract administrator) supported, reviewed and signed off by their Head of Service.

- 16.5. This will then be circulated to all those involved in the project and signed off by each team member.
- 16.6. Once this is done project plans will be developed by the project lead. The work required will be broken down into manageable chunks and divided up into mini projects or work streams, all with clear SMART objectives.
- 16.7. The project plan will contain time frames and determine the critical path, which activities must be completed before other activities can start to ensure the project can be completed on time.
- 16.8. If consideration is being made of bringing the contract in house this should be made at the outset with the pros and cons assessed and agreed with LET at the outset of the project.
- 16.9. KPI's for the contract should be agreed by the team.
- 16.10. Where the procurement is a regulated procurement activity the project scope and plan should go to the board for approval and detail the rationale behind the procurement approach.
- 16.11. The procedure document to this policy supports the project management of the tender.
- 16.12. Finance will support the procurement process by ensuring compliance with this policy. They will also form part of the group assessing the tender returns for regulated procurement.
- 16.13. If any members of the project group change during the process it won't be assumed that new member will understand what has went previously and as such all new members should be fully briefed.
- 16.14. Staff involved as part of a project team are committed to the following;
  - Following this policy
  - Completing tasks by agreed deadlines
  - Take ownership and accountability for the project both for their individual parts and for the project as a whole.
- 16.15. For all regulated procurement activity a recommendation for contract award regarding the outcome of the tender is made to the next Management Committee.
- 16.16. A project debrief will always be undertaken at the end of the tender and best practice and areas for improvement recorded and shared with the Policy Champion.

#### Use of Consultants

- 16.17. As the organisation goes through a period of assessing the skill set of its procurement capabilities it may be necessary to engage the services of a consultant to support the procurement activity. This assessment will be made at the project scope stage.
- 16.18. A consultant will generally be used in one of two instances;
- Expertise on procurement process
  - Expertise on specification and price assessment
- 16.19. Where a consultant is used in the procurement process this will be managed by the project lead.
- 16.20. The consultant used in the process must have procurement experience of the whole process.
- 16.21. Where a consultant is used for specification and price assessment purposes this will be managed by the project lead.
- 16.22. The use of a consultant cannot be defined in the policy but will be recorded as part of the project scope the reasons why and what their remit and the expectation of them will be. It will consider, but is not restricted to, such things as project risk, timescales, availability of internal resource, skill level of internal staff and timescales for delivery.
- 16.23. The selection of a consultant will be on a project by project basis and follow the procurement route depending on the estimated cost of assisting in the project.
- 16.24. The consultant will be given a copy of our project plan and the timescales and the content of the plan will be jointly agreed.

#### Customer Consultation

- 16.25. The project scope will consider if customer consultation is required in line with this policy.
- 16.26. If customer consultation is required, the project plan will define who will do this and how and when this is done.
- 16.27. Prior to the consultation being carried out the approach to customer consultation should be agreed by the Director whose service line is making the purchase.
- 16.28. A mini project plan for customer consultation will be set up and signed off by the relevant Director.
- 16.29. The customer consultation should follow the principles as set out in the customer excellence strategy – making use of the customer champion pool.

- 16.30. Customer consultation should not be restricted to any one medium. We must make use of online surveys, telephone calls, social media, customer visits and mail surveys.
- 16.31. Support for this will be required from several areas of the business and the project plan will clearly set out who is doing what and when.

## **17. Open and Evaluate Tender**

- 17.1. When opening and evaluation a tender LHA will follow its key principals in maintaining transparency and impartiality throughout the process of tender evaluation.
- 17.2. All LHA staff will follow the tendering opening procedures as detailed in the procedural document.
- 17.3. All LHA staff will use LHA's evaluation matrix tool to assess the best value for money based on both the qualitative and financial criteria.
- 17.4. When using a consultant to support the tender process we will expect them to deliver a tender report that provides their recommendation on the outcome of the tender. We must ensure this is specified when appointing a consultant to the tendering process.
- 17.5. Where we deem tenders to be abnormally high/low tenders even after the supplier has been given the opportunity to review their tendered price submission, we should not accept these tender in line with the Act or Regulations.
- 17.6. If customers are involved in the evaluation process at the end of process the project lead must seek feedback from them in terms of either testimonials or ways we can improve the process going forward.
- 17.7. Feedback on the process and outcomes should be feed back to the Customer Engagement team by the project lead for inclusion in the next customer newsletter.

## **18. Staff training and development**

- 18.1. The success of the current Procurement and Value for Money Policy and proper implementation of the procedures depend on the knowledge and skills of staff implementing them.
- 18.2. Our Procurement and Value for Money Strategy sets out our commitment to ensure that the skill level of our staff is in line with the Scottish Governments National Procurement Competency Framework skill level for the role they are undertaking.
- 18.3. Regular training will be provided to staff to ensure a consistent approach and make sure staff are equipped to carry out the roles expected of them. Annual CPD will be provided to staff involved with the procurement

process to ensure their knowledge is in line with current Scottish and EU procurement legislation.

- 18.4. All staff will be trained on how to undertake a quick quote procedure.

## **19. Policy review**

- 19.1. The policy champion is the Head of Finance & Procurement.
- 19.2. This policy will be reviewed biannually or as required due to changes in our strategy and legislative or regulatory change, in particular procurement regulations.

## **20. Risk Management**

- 20.1. LHA has a Risk Management Strategy, Policy and Procedure. These documents set out how the organisation will manage risk as an integral part of its governance and management systems, ensuring risks are identified, evaluated and controlled effectively.
- 20.2. Identifiable risks arising from this policy will be monitored and managed by the internal processes set out herein and by regular review of this and all other associated policies and procedures, ensuring risks are mitigated and LHA complies with all legislative requirements and regulatory and best practice guidance.

## **21. Complaints**

- 21.1. LHA has a commitment to valuing complaints and ensures the organisation benefits from feedback to identify areas for change or improvement.
- 21.2. LHA has a Complaints Policy which ensures there are robust and effective procedures in place for complaints to be properly managed and acted upon.
- 21.3. Anyone dissatisfied with the outcome of their complaint having exhausted LHA's complaints procedure has the right to refer the matter to the Scottish Public Services Ombudsman.

## **22. Equality, Diversity & Inclusion**

- 22.1. LHA aims to ensure that equality, fairness, dignity and respect are central to the way we work and how we treat our customers. We support diversity and uphold equal opportunities in all areas of our work as an employer and service provider.
- 22.2. LHA will not discriminate against tenants, staff, visitors, suppliers or others based on their age, sex, sexual orientation, race, disability, religion or belief,



marital status, pregnancy and maternity or gender reassignment (collectively referred to as 'protected characteristics' in the Equality Act 2010).

### **23. Key Performance Indicators**

- 23.1. LHA will measure procurement and value for money in line with its strategy.
- 23.2. We will work with our customers to ensure contractor performance indicators are set in line with what matters to them.
- 23.3. We will carry out a robust review of each procurement activity – did it achieve what it set out to do, has it made a real difference to the customer, is it achieving VfM for our business and customers.
- 23.4. We will participate in benchmarking amongst peers to establish if best value is achieved and share information to better services across the sector.
- 23.5. We will also ensure key performance indicators are built into every contract we issue to our supply chain. They will be managed in line with the contractor management policy.
- 23.6. Key performance indicators for contractors must include Health and Safety performance reports and data.

### **24. Invoices**

- 24.1. Once a contract has been agreed or we are making an Ad-Hoc purchase all LHA staff are required to complete a purchase or works order. The purchase or works order should be raised in line with the authorisation limits set out in the Financial Regulations.
- 24.2. The only occasion this is not acceptable is when using a prepaid debit card.
- 24.3. When a new contract has been agreed with a new supplier or a new supplier is used for an Ad-Hoc purchase all staff must complete a new supplier form at the outset prior to any purchase to ensure that payment of the invoice can be made by Finance once the invoice has been received. A new supplier form can be found in the procedure document.
- 24.4. The bank details provided to Finance for payment will be independently verified by Finance before being processed onto the system.
- 24.5. Where contracts provide for payments to be made by instalments, the relevant Director will be responsible for the keeping of individual accounts to show the financial transaction on each contract together with any other payments and related professional fees.

- 24.6. Payments to contractors on account during a contract shall only be made against a certificate, signed by or on behalf of the Contract Administrator, having regard to the authority levels in the Financial regulations. The certificate shall only be issued following the completion of a properly constituted valuation and will be endorsed by an authorised signatory in accordance with the authority levels.
- 24.7. Subject to the provisions of the contract, in each case every variation shall be authorised in accordance with the authority levels in the Financial Regulations.
- 24.8. Any such variation which causes the contract contingency to be exceeded shall be reported to the appropriate Director as soon as practicable and, where practicable, work or expenditure shall be delayed until authorised by the Chief Executive up to 5% of the contract value or £50,000; over and above this by the Management Committee.
- 24.9. Late payment legislation places a statutory duty on all public bodies to pay commercial debt within 30 days.

So far as reasonably practicable we will make payments no later than 30 days after the invoice relating to the payment is presented.

All tenderers, irrespective of the goods, services or works they supply/provide will be asked to provide a statement on how they support the above requirement, to, where reasonably practicable ensure timely payments to sub contractors and their sub contractors are made. Respective tender documentation will declare any specific requirements, performance measuring, reporting requirements above those which are a statutory requirement.

## 25. Responsibilities Chart

25.1 The chart below illustrates the responsibilities of all staff in relation to this policy.

Responsibilities	Board/ CEO	EMT	Management Team	Team Leaders	All Staff
To set the policy and direction with regards to procurement and value for money	✓				
Ensure the policy meets the requirements of the Scottish Procurement Reform Act 2014	✓				
Policy Champion			✓		
Budget holders responsible for their own area of procurement			✓		
Management of the day to day risks in procurement activity			✓	✓	✓
Annual review and update of procurement strategy			✓		
Maintenance of the Contracts register			✓		
Monitoring procurement and value for money action plan quarterly and reporting concerns to EMT			✓		
Preparation of annual procurement report			✓		
Procurement procedures are followed diligently and guidance sought throughout the procurement process.					✓
Working with P&C arrange appropriate training		✓	✓		
Ensure policy is reviewed annually or as necessary	✓				