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| <b>Policy Name</b>      | Procurement Policy             |
| <b>Policy Category</b>  | Asset Management               |
| <b>Policy Number</b>    | AM008                          |
| <b>Date to Board</b>    | 19 <sup>th</sup> February 2018 |
| <b>Next Review Date</b> | February 2023                  |

## Introduction

- 1.1 This policy sets out how Lochaber Housing Association (LHA) undertakes its procurement of all goods, works and services from third parties. It does not apply to the procurement of works or services from our subsidiary company. Procurement is defined as the process by which services, goods and / or works are obtained to support and pursue Lochaber's aims, objectives and activities. Procurement can involve a very wide range of activities, from the tendering of complex development or planned maintenance contracts to the purchase of routine goods such as stationery and also includes the commissioning of specialist and/ or professional advice and support.
- 1.2 As a Registered Social Landlord (RSL), LHA is subject to the EU Procurement Directives. These have been incorporated into Scottish domestic law by the Procurement Reform (Scotland) Act 2014 and the related Procurement Regulations<sup>1</sup>. For the purposes of the legislation, LHA is termed a 'contracting authority'.
- 1.3 This policy is intended to ensure that LHA's procurement activities meet organisational requirements and are compliant with statutory obligations. All of LHA's procurement is undertaken to support the achievement of LHA's strategic and business objectives and reflect our core values, especially our commitments to maximising our social impact through our charitable purpose and to cost-effective management and efficient service delivery<sup>2</sup>. Our procurement activities will deliver value, support continuous improvement and contribute to sustaining local communities and economic growth<sup>3</sup>. We are also committed to ensuring that our approach to procurement is proportionate to the scale and significance of our organisation and the specific procurement initiatives that we undertake.

## Regulatory Requirements

- 2.1 In developing this policy and in undertaking our procurement activities, LHA has taken account of the SHR's Regulatory Standards of Governance and Financial Management, specifically:

**Standard 1:** The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users

**Standard 3:** The RSL manages its resources to ensure its financial well-being and economic effectiveness

<sup>1</sup> The Public Contracts (Scotland) Regulations 2015; The Procurement (Scotland) Regulations 2016

<sup>2</sup> LHA Business Plan 2016-2019

<sup>3</sup> LHA Procurement Strategy 2017

**Outcome 13: Value for Money:** Social Landlords manage all aspects of their businesses so that tenants, owners, and other customers receive services that provide continually improving value for the rent and other charges they pay

**Outcomes 14 and 15:** Rents and Service Charges: Social Landlords set rents and service charges in consultation with their tenants and other customers so that

- 1) A balance is struck between the level of services provided, the cost of services and how far current and prospective tenants and other customers can afford them; and
- 2) Tenants get clear information on how rent and other money is spent, including details of individual items of expenditure above thresholds agreed between landlords and tenants

## **Accountability and Decision Making**

- 3.1 Responsibility for approving LHA's Procurement Strategy and Policy is the responsibility of the Board, which has delegated operational responsibility for implementation to the Chief Executive.
- 3.2 Individual procurement activities will be led by a 'lead officer' who will have appropriate levels of delegated authority to take the necessary decisions and actions to fulfil the terms of this policy. Lead officers will be appointed by the relevant Head of service or by the CEO.
- 3.3 All procurement decisions will be made in the best interests of LHA and its customers and will be driven by our commitment to ensure the delivery of high quality services that demonstrate value for money.
- 3.4 Procurement covers a wide range of activities with very different levels of financial impact. Each department has delegated responsibility for procurement in accordance with agreed budgets and delegated authority.
- 3.5 All staff are responsible for ensuring that the requirements of our procurement strategy and policy are fulfilled and all must demonstrate the highest standards of probity and integrity when acting on our behalf. This responsibility extends to our agents, particularly our Development Agent: they are expected to meet the same high standards that we expect of ourselves.
- 3.6 Routine and operational expenditure will be provided for in the annual budget which, once agreed, establishes the basis for agreed expenditure to be incurred, in accordance with financial regulations. Additional approval will not normally be required and expenditure will be monitored by the Board's Audit sub-committee via quarterly management accounts.
- 3.7 Once approved and included in the agreed budget, further approval to incur the agreed expenditure from the Board will not normally be required, unless there is a need for additional expenditure. Development proposals will be progressed by our Development Agents, in accordance with our Development Strategy and Contract Management Policy. At all times, LHA's Scheme of Delegated Authority will be observed.

## **Health and Safety**

- 4.1 LHA takes its responsibilities for health and safety very seriously and will ensure that its procurement activities reflect that commitment. All contractors and suppliers are expected to ensure the safety of their employees and to give priority to safe working practices for their own employees and for the employees of all sub-contractors.

## Equality

5.1 All of our procurement activities will be open, fair and transparent. We will ensure that all of our procurement decisions are taken in accordance with this and related policies. We will not tolerate discrimination on any grounds, including any of the protected characteristics set out in the Equalities Act 2010.

## Procurement Processes

6.1 The Procurement Reform (Scotland) Act 2014 establishes two 'tiers' of procurement activity: un-regulated procurement and regulated procurement. Procurement is categorised according to both the nature of the procurement activity and the value. The 2014 Act defines **regulated procurement** as being:

- Procurement of **goods and services with a value of £50,000 or more**
- Procurement of **works with a value of £2,000,000 or more**

6.2 Consequently, unregulated procurement activities relate to:

- Procurement of **goods and services with a value of less than £50,000**
- Procurement of **works with a value of less than £2,000,000**

6.3 All procurement activities will be led by a member of staff who has sufficient authority to act on behalf of LHA for that purpose. The lead officer will be responsible for ensuring compliance with LHA's policy and procedures and for ensuring that all contracts are procured and let in accordance with statutory requirements where applicable. The lead officer will be responsible for the preparation of all procurement and tender documentation and for obtaining all necessary consents throughout the procurement process.

6.4 In order to ensure that we are open and accountable in our approach to procurement, we will adopt the following practices in respect of our procurement activities:

| <b>Contract Value</b>  | <b>Procurement Route</b>  |
|--|---|
| <b>Unregulated</b>   |   |
| Up to £2,000   | Verbal quotation from one supplier on basis of verbal invitation to quote followed up by confirmatory e-mail      |
| £2,000 - £12,000   | Written quotation from one supplier on basis of written invitation to quote                                       |
| £12,000 - £50,000 (goods and services) AND £12,000 - £2,000,000 (works)  | Written quotations from minimum three suppliers on basis of written invitation to quote using Quick Quotes system |
| <b>Regulated</b>   |   |
| Over £50,000 (goods and services) and over £2,000,000 (works) – these are regulated procurements and must comply with statutory provisions | Full tender process including advertising on PCS and in OJEU  |

6.5 Where we are undertaking a competitive tendering exercise, we will ensure that all tender packs are clear and unambiguous and that our specification of the goods, services, supplies or works is accurate and comprehensive. We will ensure that all of our requirements are specified clearly, including those relating to innovation, social and/or community benefits. We will be clear about the criteria that we will use to assess proposals from bidders and our selection of successful suppliers / contractors will be informed by our experience, including the results of tenant satisfaction feedback and post completion scheme assessments. The

content of our tender pack is set out in Appendix 1 to this policy; to ensure a proportionate approach, the requirements of the tender pack may be modified to reflect the scale / complexity of the proposed contract.

- 6.6 In relation to development contracts, our agents, the Highlands Small Communities Trust (HSCHT) leads the procurement process. For all procurements requiring competition we, or the HSCHT, as appropriate, will publicise the contract opportunity via the PCS website and we will make use of the Quick Quotes facility where appropriate. We or, if appropriate, the HSCHT, will also publicise the opportunity to those suppliers/contractors/consultants that we think, based on our market knowledge, may be interested in submitting a bid and have the capacity to meet our requirements.
- 6.7 Our assessment criteria for all procurements will normally take account of both quality and price; where an un-regulated procurement exercise relates only to goods, we may award a contract to the lowest bidder on the grounds of cost alone. We will not be bound to accept the lowest priced or any tender and will always take procurement decisions in the best interests of the organisation and its customers.
- 6.8 If we intend to assess bids in an un-regulated procurement exercise solely on the basis of price, we will specify this in the tender pack. If we decide not to award such a contract to the lowest bidder, we will report the reasons for our decision to [the Board] before confirming the contract award. A decision to accept a higher price may be justified by our assessment that the lowest priced bidder does not have the capacity to provide the goods to the required standard or within the required timescale.
- 6.9 Tender packs will be prepared to ensure that bidders are clear about our requirements and expectations. We will seek to provide sufficient information to enable all interested bidders to submit robust proposals for our consideration. The form of our tender pack is set out at Appendix 1 and may be modified to reflect the scale and complexity of the proposed contract. Where we are seeking to procure the services of consultants in respect of a development project, we will include a Strategic Brief in the tender pack, the terms of which are described in Appendix 2. HSCHT will ensure that all competitive tenders are assessed in accordance with the criteria that are specified in the tender pack.
- 6.10 Appendix 3 sets out the arrangements that we will follow in respect of both competitive and non-competitive unregulated procurement.
- 6.11 Proposals in respect of regulated procurements will be assessed by a panel made up of at least three officers from more than one department (one of whom will be the lead officer). In the case of development contracts, the lead officer will be our agent, the HSCHT. In all cases, the responsibilities of the tender assessment panel will include:
- Agreeing the procurement route and/or tender list
  - Determining the assessment / selection criteria and the weightings to be applied to consideration of quality and price
  - Considering all the tenders received and assessing their 'fit' with the requirements of the brief and assessment criteria
  - Interviewing tenderers where their proposals meet the minimum tender requirements
  - Letting the contract in accordance with delegated authority
  - Reporting the outcome of the procurement exercise to the Board or appropriate sub-committee, where required

## **Regulated Procurement**

- 7.1 LHA's regulated procurement activity will almost certainly be confined to capital works relating to development and asset management activities, so will, therefore, be led by the HSCHT. We may, for reasons of efficiency, decide to procure such works via a Framework Agreement. Decisions about the most appropriate procurement route will be taken by the HSCHT, in conjunction with the Association, and, where appropriate, with the Highland Council and Scottish Government.
- 7.2 Where we do not intend to procure via a Framework agreement, HSCHT/LHA will adopt either an 'Open' (single stage) or 'Restricted' (two stage) procurement process for all regulated procurement activities.
- 7.3 Where a restricted process is adopted, a European Single Procurement Document (ESPD) will be issued, which will be used to develop a tender list. The HSCHT will use its experience of working with potential bidders to inform the tender list, as permitted by the terms of the 2014 Act and associated regulations. The contract opportunity will be published on PCS and in OJEU. The HSCHT will be responsible for assessing completed EPDs and for compiling a tender list.
- 7.4 Where an open process is adopted, the contract opportunity will be publicised via PCS and OJEU and will make all necessary information available to enable interested parties to respond, in accordance with the Procurement Reform (Scotland) Act 2014. Where HSCHT have published a contract opportunity on PCS, a Contract Award Notice will also be published at the end of the competitive process.
- 7.5 In assessing tenders received in respect of a regulated procurement exercise, HSCHT will apply the terms of this policy to all stages of the process. Tender packs must comply with the requirements of this policy and assessments and contract awards will be made in accordance with the criteria contained in the tender documentation and notified to bidders in accordance with agreed timescales.
- 7.6 We will ensure that all our regulated procurement activity complies with statutory requirements. Our Agent is responsible for ensuring compliance on our behalf in respect of development activity. In the case of asset management works, our Head of Asset Management is responsible for ensuring compliance.

## **Assessment and Appointment**

- 8.1 Assessment of competitive proposals (for both unregulated and regulated procurement exercises) will be based on the criteria specified in the tender pack and will combine an assessment of quality and price in order to deliver value for money.
- 8.2 Appendix 4 sets out the considerations that we will have regard to in determining the assessment criteria and in developing a ESPD, where required.
- 8.3 Although not fixed, we will normally seek to achieve an assessment balanced between quality and price that reflects a ratio of 40:60. We must ensure, in respect of capital programmes, that the proposed costs can be accommodated within the available funding and that any increased cost (i.e. higher than the lowest bid) is justified by enhanced specification or performance. For all other contracts, we will always seek to procure within the agreed budget provision.

## **Appendix 1: Invitation to Tender Pack for Suppliers and Contractors**

The Invitation to Tender documentation should normally include:

- Letter of invitation (should state date and time of tender return and form of submission)
- Instructions to tenderers
- A full Description / Specification of:
  - Goods and / or Services required and service / quality standards
  - Works and drawings, specifications and products, Preliminaries\* and Bills of Quantities
- The Conditions of Contract
- The Contract period
- Evaluation and Assessment criteria, including weightings (where appropriate)
- Details of the Contract Administrator / Lead Officer
- Arrangements for pre-tender briefing (where appropriate)
- Arrangements for prior inspection of works by tenderers (development and asset management contracts only)
- For Design & Build contracts, standard forms of Novation and Design Warranties
- Insurance / Indemnity requirements
- Payment arrangements

## **Invitation to Tender Pack for Consultants**

- Letter of Invitation (should state date and time of tender return)
- Strategic Housing Brief (where applicable)
- Consultants Brief (including Scope of Service)
- Conditions and Terms of Engagement
- Payment arrangements
- Pre and post contract timescales for production of information

## **Appendix 2: Strategic Brief**

### **Indicative Contents of Strategic Brief for Development Projects**

- Objectives of the project.
- The site (location, aspect, capacity, any historical information that could affect the consultant's area of work e.g. ownership or purchase arrangements, access, landowner restrictions).
- Development constraints (e.g. contamination; archaeological impact; proximity to site of special scientific interest (SSSI) or particular exposure).
- Intended client group(s) and proposed tenure mix.
- Functions to be accommodated, such as a link to employment initiatives, support and care initiatives.
- Proposed accommodation types and sizes (where known).
- Specific design requirements.
- Required performance standards of buildings and components (long term maintenance).
- Any requirements about the use of specific materials (e.g. timber; roof tiles; window units; doors).
- Internal and external environmental requirements (e.g. greenspace).
- Client's intentions relating to contractor procurement, or factors likely to affect decisions.
- Community consultation or tenant involvement.
- Phasing and Outline Programme.
- Detailed financial considerations, including available capital budget, grant targets; indicative cost limits.
- Any elements of the project to be specifically monitored (e.g. innovation).
- How success of project will be measured and monitored.
- Details of process to be followed for procuring consultants' services (or of consultants already appointed), including what is expected of consultants in responding to strategic brief.
- Site Development brief (as prepared by THC planning department)
- Planning conditions.
- Phased handover requirements.
- Application of Association's Design Brief, including the requirements of Housing for Varying Needs.

### **Appendix 3: Tendering Procedure for Un-regulated Procurement**

1. The Association's policy provides for both competitive and specific procurement, depending on the value of the contract. The procedures described in this Appendix distinguish between the two forms of procurement. For the avoidance of doubt, all values specified are exclusive of VAT.

#### **Contract Value Not Exceeding £2,000**

2. For procurement of goods or services with a value of not more than £2,000, LHA may approach a single preferred supplier.
3. The Invitation may be conveyed orally or in writing (e.g. by e-mail). Invitations must be made only by those officers with the appropriate delegated authority to incur the proposed expenditure, as defined in LHA's Scheme of Delegated Authority.
4. The quote may be provided orally (e.g. by telephone) or in writing (e.g. by e-mail). Where the quote provided is acceptable to LHA, acceptance must be confirmed in writing (e.g. by e-mail). The written confirmation should specify:
  - the nature of the service or goods to be provided,
  - the total cost
  - the relevant timescales for completion / delivery

#### **Contract Value between £2001 and £12,000**

5. For procurement of goods or services with a value between £2,001 and £12,000, LHA may approach a single preferred supplier.
6. The Invitation must be conveyed in writing (and may be by e-mail). Invitations must be made only by those officers with the appropriate delegated authority to incur the proposed expenditure, as defined in LHA's Scheme of Delegated Authority.
7. The Invitation should specify:
  - the nature of the service or goods to be procured
  - the total cost
  - the relevant timescales for completion / delivery
8. A written quote must be provided. Where it is acceptable to LHA, acceptance must be confirmed in writing (e.g. by e-mail) and the acceptance should confirm the nature of the goods / services; the timescale for completion / delivery; the total cost and any arrangements for monitoring or control.

#### **Un-regulated Procurement of Contracts Valued Over £12,001**

9. For all unregulated procurements with a value in excess of £12,001, LHA will use the Quick Quotes facility that is administered by PCS. A minimum of three suppliers will be invited to provide a written quote. By using the Quick Quotes system, an audit trail will be established.
10. LHA may decide to seek written competitive quotes from suppliers who are not registered with PCS. All suppliers must be selected in accordance with Appendix 4 of this policy (including those registered with PCS) and competitive procurement exercises may involve seeking both Quick Quotes and traditional written quotes. Regardless of which method is used, the same documentation will be used.



11. Tenders which are not submitted via the Quick Quotes facility will be recorded by the person responsible for receipt and held securely until the deadline has expired when they will be passed to the lead officer for opening. Tenders which are received in hard copy format will be date stamped and signed by the person receiving them and held in a safe place until the day and time of opening.
12. For electronic submissions, LHA will operate a secure designated mailbox.

## Appendix 4

### Assessment and Selection of Contractors, Consultants and Suppliers

Tenders from contractors, consultants and suppliers of goods and services will be assessed taking account of the following criteria (as relevant to the specific procurement exercise):

- Registration with Construction Industry Scheme (where relevant, for example, Gas Safe)
- Possession of adequate insurance cover (*company liability insurance, public liability insurance, contractors all risk insurance*)
- Past experience of working with the Association and/or HSCHT
- Track record, including evidence of having undertaken work similar to that likely to be commissioned by the Association (established from external sources including references)
- Ability to provide third party building warranty where the project in question includes an element of low cost home ownership
- Health and Safety record and policy, where appropriate
- Capacity: whether the contractor has sufficient skills and resources (including the proposed lead project personnel) to undertake work on behalf of the Association (this could be informed by recent experience of similar work)
- Existing workload
- Use of sub-contractors
- Ability to offer advice to project team on 'buildability' (in the case of a development contract)
- Ability to meet sustainability targets (sourcing of materials, reduction in waste)
- The contractor's organisational policies
- Contractor's policy and practice on providing apprenticeships and training, local employment and payment of the living wage
- A willingness to accept the Association's values, principles and expectations
- Expertise in managing the supply chain
- Financial Health and viability, for example, through bank references and/or accounts
- References, where appropriate

Where a two stage regulated procurement process is being followed, a ESPD may be used to gather some of this information to inform the development of a tender list.

We will only exclude potential bidders from a regulated procurement exercise in accordance with the provisions of the 2014 Act and associated regulations.