



# Procurement and Contracts Policy

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## **1.0 Introduction**

1.1 Procurement is the process of acquiring goods, services and works from the identification of need through to the end of a contract or the end of a useful life of an asset. This includes critical evaluation and decision making in respect of in-house supply provision or alternative supply arrangements.

Empower Housing Association (EHA) is committed to including social value in all aspects of procurement and contract management. We will consider environmental, social and economic impact and consequences of any works and services and will wherever possible ensure this consideration extends to how suppliers and their supply chains address these issues. We aim to encourage local suppliers to engage in any procurement opportunities EHA is involved in.

The Procurement Act 2023 (PA23), as supported by the Procurement Regulations 2024, governs all procurement by 'contracting authorities'. As a contracting authority, EHA is obliged to comply with PA23 when procuring.

## **2.0 Scope of the Policy**

2.1 This policy applies to all procurement activities commenced on or after 24th February 2025, regardless of the size of the procurement. PA23 applies to 'Contracting Authorities' in England, Wales and Northern Ireland. Scotland will adopt its own regime although this will apply to any cross-boarder Authorities and contractors.

EHA will seek to achieve transparency throughout the procurement process in line with PA 23 objectives.

The term 'procurement' as used in this policy covers the process of purchasing the full range of goods and service EHA requires ranging from small items purchased to large, planned maintenance contracts awarded following a full tendering process.

Any contracts awarded under the previous legislation will continue to be managed under the terms of that contract until such a time as the contract, or commercial tool ceases to exist.

## **3.0 The Policy**

3.1 The objectives of this Policy are to ensure that EHA:

- Maximises its ability to benefit from aggregating the purchasing power of its procurement, recognising the need to achieve good value for money rather than simply cost savings;
- Colleagues are committed to effective procurement;
- Follows and complies with all statutory, regulatory and agreed best practice requirements;
- Ensures compliances with internal financial regulations, standing orders and Public Contract Regulations;
- Is transparent and fair in all its procurement activity

- 3.2 All procurement activities will be in line with:
- UK Procurement Legislation
  - EHA's governance requirements for procurement, financial and other internal regulations and procedures.

This policy must be read in conjunction with EHA Financial Regulations.

### 3.3 **Procurement Activities**

The main goods, services and works that will be procured by EHA may include:

- Office supplies printing, stationery, postage and other materials consumable products
- Trade materials used by the Maintenance Team
- Other fixed assets, ICT equipment, office furniture and equipment, vehicles
- Maintenance contracts related to office-based equipment or services, other fixed assets e.g. ICT equipment, fire and security alarm systems
- Maintenance contracts related to property-based equipment or services, e.g. gas servicing/maintenance, specialist equipment, legionnaires assessments
- Professional services including internal auditors, external auditors, IT support, and management consultants employed on specific projects
- Contractors covering the full range of trades and professions in relation to responsive repairs, planned maintenance, property compliance, and property development/refurbishment

### 3.4 **Corporate and Social Responsibility**

All procurement will:

- Be sustainable and support the delivery of high-level customer service to EHA and tenants;
- Comply with Health & Safety requirements, EHA's Code of Conduct, statutory regulation, Regulator of Social Housing guidance and good practice and other appropriate and relevant standards;
- Consider the use of small and medium sized enterprises to support local communities or determine how larger suppliers will contribute to the local economy;
- Be ethical and services supplied be based on good business principles;
- Require a social value offering and involve tenants in the process where applicable.

### 3.5 **Expenditure**

Prior to committing EHA to any form of expenditure the following principles **must** apply:

- The spend must be legal;
- Budget provision must exist or if there is no allocated budget, any spend must be approved by the Senior Management Team / Board;
- The decisions must be able to be justified in all respects;
- Any person involved in the procurement process must declare if they have an interest in accordance with EHA's Code of Conduct and remove themselves from the process if they are conflicted

### 3.6 **Value for Money**

In all procurement activities we will aim to achieve the 'best value for money' in a sustainable manner by ensuring that, whenever appropriate, we assess quality, cost and sustainability.

We recognise that the lowest cost will not necessarily be the best value in the longer term, particularly when the contract being procured has a high degree of service delivery and therefore evaluation would be aligned to the concept of most advantageous tender (MAT) v the former standard evaluation of the most economically advantageous tender (MEAT).

We recognise the importance of sustainable procurement, and our duty to demonstrate that we are procuring in a manner that improves economic, social and environmental well-being (this includes reduction of inequality) of the communities we operate in.

Sustainable procurement should be balanced with value for money and quality and needs to be proportionate to the risk involved in each individual procurement.

The specific procurement approach adopted will be based on the nature, scale and value of the contract being awarded. We will also seek to contribute to maintaining and improving the environment, both by purchasing recycled 'environmentally friendly' fair and ethically traded goods and items whenever possible and/or by supporting suppliers or contractors whose values and production processes are environmentally positive.

### 3.7 **Authority to Incur Expenditure**

Where the proposed expenditure is already included in the approved annual budget, the Board will delegate the authority to procure goods and services and demonstrate VFM, as detailed in Appendix 1

Where the proposed expenditure is not included in the approved annual budget, either because it is an item or group of items not considered when the budget was drawn up or because the expenditure will result in an approved budget becoming overspent, no procurement should take place without the prior written approval of the Senior Management Team / Board in line with Financial Regulations.

In circumstances of emergency, expenditure may be incurred beyond authorisation levels by obtaining prior approval of the Senior Management Team or in extreme cases the most senior colleague on duty who will consult a member of the Board, if possible, before agreeing to any request. Any expenditure so incurred must be reported to the Chief Executive Officer (CEO) the next day and reported by the CEO to the next Board meeting detailing how this expenditure will be financed.

### 3.8 **Below Threshold Procurement**

#### **General**

The main provisions of PA23 apply above £207,720 (services and supply of goods) and above £5,193,000 (works, e.g. construction, development and ancillary works) (the **Financial Threshold**).

Below the Financial Threshold, there is much more flexibility for EHA to procure as it sees fit, in line with its own internal policies and procedures. Appendix 1 shows a procurement summary as detailed within Financial Regulations.

As there is lighter control, EHA may negotiate a price with contractors, suppliers or consultants on projects which are below approved list thresholds, or which are specialist, emergency or relate to insurance works.

### 3.9 **Below-threshold tendering procedures – upto £30,000 (including VAT)**

The below-threshold noticing requirements apply at different thresholds to different categories of contracting authorities. The new categories at section 87(4) PA23 determine EHA as an ‘other contracting authority’ with below threshold limit of £30,000

### 3.10 **Below-threshold tendering procedures - £30,000 (including VAT) – Financial Threshold**

Contracts above £30,000 (including VAT) are caught by some specific notification requirements set out in PA23.

#### **Advertising:**

- If EHA is ‘advertising’ a contract, it must also advertise the contract on the central digital platform (i.e. Find a Tender).
- ‘Advertising’ means promoting the contract wider than asking a small group (e.g. three or four) of suppliers for quotes. It means a wider or more open group of suppliers have been approached. EHA will have to advertise the contract on Find a Tender, and on our website or in local or specialist press.
- To advertise the contract on the central digital platform, EHA must publish a ***below-threshold tender notice*** on the central digital platform.

#### **Advertising the Contract Award**

- EHA must publish a contract detail notice as soon as reasonably practical after entering a below-threshold contract, regardless of whether or not a below-threshold tender notice was previously issued.
- The notice must be issued on the central digital platform.

### 3.11 **General requirements for ALL below threshold procurement**

- No pre-qualification permitted
- Competitive tenders are not permitted to have a separate suitability stage which reduces the number of bidders invited to tender.
- EHA can request suitability information (e.g. financial standing data, evidence of experience) from suppliers, but cannot use it to pre-qualify bidders.
- This restriction does not apply to works contracts that are over the Financial Threshold for goods/services contracts but below the Financial Threshold for works.

### 3.12 **Considering Small to Medium Enterprises (SME)**

- Before competitively tendering regulated below-threshold contracts, EHA must also consider any barriers that SMEs may face, and how they might be reduced or removed.
- This consideration must be documented to demonstrate that EHA has complied with its obligation in PA23 to undertake such consideration.
- This obligation does not apply to awards under frameworks.

### 3.13 **Resultant Contract**

Implied payment:

- Prompt payment terms are implied into all below-threshold contracts and their subcontracts.
- EHA is required to pay all valid and undisputed invoices within 30 days (beginning with the day the invoice is received or becomes due, if later). If EHA disputes an invoice, or consider it to be invalid, EHA must notify the payee without undue delay.
- EHA cannot restrict or override these terms, although EHA can pay within less than 30 days.
- Any contract must reflect these requirements.

### 3.14 **Amendments**

- The rules and limits regarding variations to existing contracts in the PA23 do not apply to below-threshold contracts, which can generally be varied without restriction.
- If a below-threshold contract is amended and the amendment causes the contract to tip over the Financial Threshold for that contract, that amendment will be governed by the PA23's rules on variations. After this, the contract should be treated as being fully regulated rather than a below threshold contract.
- Where it proposed that contracts are procured through negotiation, there must be clear justification for doing so and the decision to enter into contracts based on negotiation must be approved by a member of the SMT. Contracts should be negotiated a maximum of twice before being reprocured and must comply with the above rules and limits..

### 3.15 **Above Financial Threshold Procurement**

Procurement above the relevant Financial Threshold (£207,720 (services and supply of goods) and above £5,193,000 (works)) is subject to the full requirements of PA23.

PA23 applies to the whole procurement lifecycle i.e. pre-procurement, procurement and the resulting contract.

Failure to comply with PA23, will open up EHA to significant risk. Failure could lead to a challenge in the courts and EHA having to pay significant damages and contracts and projects having to be set aside (cancelled and abandoned) until we can properly re-procure them which could be costly.

EHA must not artificially subdivide contracts so as to fall below the Financial Threshold. Where supplies under two or more contracts could reasonably be supplied under a

single contract, EHA must aggregate the value of those contracts for the purposes of the valuation, without good reasons not to do so. For example, where quotes for blocks of maintenance work of the same type are to be obtained, separate quotes should **not** be sought for individual addresses.

Any colleague found to be operating this policy in such a deliberate, unauthorised and unethical way may be subject to disciplinary action.

### 3.16 **Regulated Procurement Supplier Management**

Our internal controls and public law place a series of responsibilities on EHA to ensure that all suppliers we do business with can evidence their compliance with:

- Our due diligence criteria (e.g. credit checks, Constructionline)
- Our policies and procedure
- Professional accreditations relevant to the services delivered
- The Modern Slavery Act 2015
- The UK Corporate Governance Code 2018
- The Companies Act 2006
- The Health & Safety at Work Act 1974
- The Data Protection Act 2018.

### 3.17 **Obtaining Prices, Quotations and Tenders**

The summary table in Appendix 1 sets out the different methods of obtaining prices, quotations and tenders that must be followed when procuring goods, services and works. These methods are based on the value of the procurement and show the acceptable procurement method and the necessary level of approval. All quotations and tenders will be recorded in a quotations/tender book for transparency. EHA will actively consider the use of established Procurement Frameworks where appropriate.

### 3.18 **Prices**

For items under the current cost limit which do not require quotations or tenders, the authorised colleague will obtain at least two alternative prices either by telephone, by accessing a current catalogue or price list, or by email to demonstrate VFM.

### 3.19 **Quotations**

Quotations may be requested either verbally or in writing. In either case, the authorised colleague will ensure that sufficient detail is provided to those invited to quote to enable accurate, comparable quotes to be received.

### 3.20 **Tenders**

Following the development of the appropriate tender documentation, contractors will be invited to tender.

As outlined above, some goods, services and works may be procured on a basis other than purely price MAT, e.g. price, quality, added value and/or sustainability v MEAT. Where this is the case, appropriate criteria and ratios will be agreed and be clearly set out for tenderers in advance to support transparency.

**3.21 Contracts and Service Agreements**

EHA will procure goods and services through contracts or service agreements for periods of one year or longer, where this offers best value. Examples are contracts for the provision of planned maintenance works, gas servicing/landlord certificates, compliance risk assessments and remedial works, equipment servicing and maintenance.

**3.22 Specialist Suppliers or Contractors**

Direct award of a regulated contract is only permitted by PA 23 in specific circumstances including when a tender is switched to a direct award. Where a direct award justification applies a transparency notice must be issued in line with procurement procedures. For EHA to do this a 'direct award justification' must apply.

**3.23 Other Methods of Procurement**

EHA will continually review its' methods of procurement in order to achieve best value for money, meet our duty of sustainable procurement and to comply with current statutory regulation, Regulator of Social Housing guidance and 'good practice'.

We will seek to develop mutually beneficial tenant/supplier relationships, particularly with those local contractors and suppliers with which we wish to develop medium to long-term arrangements for the benefit of EHA and our tenants. This may include utilising open frameworks, dynamic markets, and joint procurement with other contracting authorities such as other registered housing providers.

**3.24 Repeat and Extended Contracts**

EHA is conscious of the time and cost that is involved in the procurement process, both from the company's point of view and that of the prospective tenderers. As a result, it seeks where feasible and within the boundaries of current procurement legislation and good practice, to develop a partnership approach with contractors and consultants. In this respect, successful completion of specific pieces of work may lead to contract extensions. In line with 3.14 The PA2023 rules and limits on amendments do not apply to below threshold contracts

The possibility, and maximum duration, of any such extension should be indicated in the original procurement process. In general, contract extensions should only be proposed where the cost lift is at or below inflation.

**3.25 Contractor Management and Competency**

EHA has a requirement to not only procure contracts in accordance with statutory regulation, legislation and guidance but also to manage the contract effectively throughout the lifespan of the contract as per the requirements of PA23.

Contractor requirements will be determined at the point of commencing the process for the procurement of goods and services or works ensuring responsibilities, requirements, competency and quality standards for any person or company undertaking work for EHA or within any of EHA's properties.

## **4.0 Responsibilities**

The Chief Executive is responsible for ensuring that colleagues implement this Policy and the relevant procedures, when procuring goods, services and works.

Procurement activity is undertaken across all areas of EHA business and the Finance Manager will ensure relevant and timely training has been delivered to ensure effective procurement and contract management is consistent across EHA.

## **5.0 Related Legislation, Regulation and Codes of Practice**

- Procurement Act 2023
- Procurement Regulations 2024
- Bribery Act 2010
- Data Protection Act 2018
- Equality Act 2010
- Public Services (Social Value) Act 2012
- Public Contract Regulations 2015
- Regulator of Social Housing Financial and Consumer Standards
- Social Housing (Regulation) Act 2023
- Supported Housing (Regulatory Oversight) Act 2023

## **6.0 Related Policies, Procedures and Documents**

- Data Protection Policy
- Environmental Policy
- Modern Day Slavery Policy
- Equality, Diversity and Inclusion Policy
- Anti-Fraud and Money Laundering Policy
- Procurement & Contract Management Procedures
- Financial Regulations

## **7.0 Reporting and Monitoring**

Board reporting will include:

- Review of financial limits every 2 years, in line with legislation or earlier if the business requires it, to ensure that they remain appropriate for effective procurement and governance.
- Annual contract report of all contracts tendered including any extensions/negotiations including details of value of goods and services by quotation
- High value contract with set & published Key Performance Indicators (KPI) – annually

Senior Management team half yearly reporting will include:

- Contracts performance against agreed KPIs

- Forthcoming contract considerations
- Supplier/contractor performance including cost, financial status, added social value and assessment of risk

## **8.0 Consultation and Publicising Policy**

EHA Managers and Senior management Team have reviewed this policy in line with legislative and procedural changes.

The Policy will be published on the EHA website and will be accessible to all tenants, their advocates and stakeholders.

## **9.0 Review**

The policy will be reviewed every two years (or sooner if there is a change in regulation, legislation or codes of practice).

## **10.0 Equality Impact Assessment**

An Equality Impact Assessment has been completed for this policy.

## Appendix 1

### Procurement Summary

Value (incl. VAT)	Primary Methods of Procurement	Approval
<b>&lt;£1,000</b>	No formal competition, approved supplier if relevant (check with maintenance or Finance) and satisfied represents VFM	Budget holder in line with authorisation limits detailed in Financial Regulations
<b>£1,000 to £4,999</b>	Approved suppliers / At least two written quotations (email is acceptable) must be kept on file, where possible 3 quotes should be obtained to demonstrate VFM. Note some leaseholder works require 3 quotes under £5k.	Budget holder in line with authorisation limits detailed in Financial Regulations
<b>£5,000-£29,999</b>	At least three written quotations (email is acceptable) must be invited and the winning bidder identified using pre-determined evaluation criteria. Where possible one quotation should be from a local supplier. Quotations should be documented and held on the procurement quotation/tender file.	Chief Executive /Director of Housing & /Finance Manager
<b>£30,000to PCR thresholds – see Financial Regulations</b>	A formal tender process will be undertaken and the winning tender identified using pre-determined evaluation criteria, or use of a procurement framework agreement. In line with the requirements of Procurement Act 2023	SMT if within approved budget, or EHA Board

#### Notes

- a) *Colleagues may consider using a higher level of procurement method if it is deemed to be appropriate due to risk level of contract or if, for example, the company does not have knowledge of suppliers to invite to quote (e.g. using full tendering for a project under £30,000)*
- b) *In all cases, a 'call off' from an appropriate framework to which EHA has access is acceptable.*
- c) *Quotations should be documented and held on the procurement quotation/tender file.*