



Forestry and
Land Scotland
Coilltearachd agus
Fearann Alba

Procurement Compliance and Policy Statements

Forestry and Land Scotland



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Forestry and Land Scotland Procurement Compliance and Policy Statements

Forestry and Land Scotland (FLS) is required to set out how it will ensure its Regulated procurements comply with Section 15(5) of the Procurement Reform (Scotland) Act 2014 (the Act) and published Statutory Guidance.

The following compliance and policy statements – designed to assist decision making, management and administrative functions – outline our approach and are embedded in FLS procurement procedures. These procedures are monitored and reviewed for their effectiveness as part of our continuous improvement activities and will therefore be updated from time to time, reflecting our learning and best practice.

Local Policies and Procedures

In addition to our legislative statements, FLS staff are required to follow local policies and procedures (updated from time to time) when undertaking any procurement activity. These include but are not limited to:

- FLS Procurement Pipeline Process
- FLS Delegated Finance and Purchasing Authority Policy
- FLS Regulated and Non-Regulated Procurement Policies and Procedures
- FLS Contract Management Policies and Procedures
- FLS Conduct and Security Policy
- FLS Fraud Policy
- FLS various Environmental and Health & Safety Policies and Procedures

Compliance with General Requirements of the Procurement Reform (Scotland) Act 2014 and Statutory Guidance

(i) Regulated procurements will contribute to the carrying out of its functions and achievement of its purposes (section 15(5)(a)(i) of the Act)

- Our procurement strategy aims and commitments are aligned to the FLS Corporate Plan and delivery progress is reported on a regular basis to the FLS Executive Team, with key actions reported upon within published Corporate Performance Reports and our Annual Procurement Report;
 - Procurement Pipeline approval processes are in place to provide assurance that the decision to place a Regulated contract directly supports a Corporate Outcome;
 - Stakeholders are engaged and involved with procurement preparation and delivery through User Intelligence Groups (UIGs);
 - Effective contract management arrangements are developed to ensure delivery in accordance with business objectives and contract terms;
 - Corporate procurement aims, commitments and policies are communicated to FLS staff.
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(ii) Regulated procurements will deliver value for money (section 15(5)(a)(ii) of the Act)

- A tender strategy is prepared for each Regulated tender to record the decision making and justification, leading to the selection of an appropriate procurement route, taking account of national policy and legislation. A robust approvals process is in place to ensure proper scrutiny of decision making;
- Pre-market engagement is undertaken, as appropriate, to enable feedback on savings and efficiency, added value, sustainability and innovation to be identified and considered in the creation of each tender strategy;
- Regulated contracts are awarded based on a mixture of cost, quality and sustainability criteria to identify the Most Economically Advantageous Tender (MEAT);
- UIGs consider and embed whole life cost models to tenders and contracts, where appropriate;
- UIGs' analysis of previous procurement activity and contract performance data is undertaken for repeat procurement to identify potential improvements, savings and added value opportunities;
- Contract monitoring is undertaken to manage compliance, quality and spend against the contract scope and value, ensuring contracts deliver their intentions;
- Feedback from contractors is sought and documented as part of regular contract review meetings and shared across functions where appropriate, to inform continuous improvement.

(iii) Regulated procurements will be carried out in compliance with the duty to treat relevant economic operators equally and without discrimination (Section 15(5)(a)(iii) of the Act)

- As part of tender strategy preparation, UIGs consider appropriate lotting structures for our tenders, enabling SME (Small or Medium Enterprise) participation;
- We use clear and precise language in our tender documentation preventing broad interpretation;
- We take steps to dispel any and all conflicts of interest from our tendering and contract management activities;
- We provide constructive debriefing information, ensuring that unsuccessful tenderers are sighted on the reasons for our decisions;
- We are an associate member of the Supplier Development Programme and participate in meet the buyer events and talking tenders sessions. This helps us to promote our activities and demonstrate our enthusiasm to expand our supply base and increase SME's knowledge of the Regulated tendering process.

(iv) Regulated procurements will be carried out in compliance with its duty to act in a transparent and proportionate manner (Section 15(5)(a)(iii) of the Act)

- We use Scottish Government's Public Contracts Scotland (PCS) portal to advertise our Regulated contract opportunities, ensuring transparency and fair access for all - the PCS 'Quick Quote' module provides us with a platform to run low risk, low value tendering opportunities;
- Our Contracts Register, including details of contracts entered into as a result of a Regulated procurement, is published on the PCS portal;
- Our Regulated procurements are conducted electronically. To comply with this legal requirement, we use Scottish Government's Public Contracts Scotland-Tender (PCS-T) platform which enables on-line, secure evaluation of bids;
- Procurement approval processes provide assurance that an appropriate tender route has been selected and an impartial evaluation of tender responses has been undertaken;
- Our selection criteria with respect to prior experience, insurance and financial requirements are proportionate, allowing newer entrants to participate in bidding for our contracts.

(v) Regulated procurements will be carried out in compliance with the sustainable procurement duty (Section 15(5)(a)(iii) of the Act)

- We prioritise and take account of climate and circular economy in our procurement activity, using the Sustainable Procurement Duty as an enabler to support our ambitions. In doing so, we adhere to the Scottish Procurement Policy Note (SPPN) 1/2021 – Taking account of climate and circular economy considerations in public procurement;
- Our procurement pipeline process enables senior leaders and procurement professionals to discharge their responsibilities regarding ‘Whether to buy and What to buy’, as set out in SPPN 1/2021 – each requirement on our procurement pipeline is subject to these considerations;
- As part of tender strategy preparation, UIG’s consider ‘What to buy; How to buy; and How much to buy’ at a Regulated tendering level;
- Where applicable, UIG’s discuss and agree Scope 3 targets for monitoring and reducing indirect emissions of greenhouse gases associated with the tender in hand;
- We use the recommended [Scottish Government’s Sustainability Tools](#) to identify and address how we can optimise economic, social and environmental outcomes of procurement activity. In this context, UIGs undertake lifecycle impact mapping and the Sustainability Test to build appropriate measures into each Regulated tender;
- Procurement professionals undertake e-learning and other continuous professional development activities to improve their climate literacy and increase their appreciation of how contracting activity can support net-zero aims for FLS and Scotland as a whole.
- As part of our commitment to implement categorisation, we will use the Procurement Prioritisation Tool to help us embed sustainability measures (including climate change reduction measures, climate change adaptation measures, and promoting biodiversity, where appropriate) into all of our Category Strategies and resulting contracts;
- We will self-assess against the Scottish Flexible Framework to identify the actions we can take to continuously improve our approach to sustainability;
- Sustainable procurement principles and requirements are embedded into our tender and contract documentation, processes and procedures.

Policy Statements required by Section 15(5) of the Procurement Reform (Scotland) Act 2014 and Statutory Guidance

(i) General policy on the use of community benefit requirements (Section 15(5)(b)(i) of the Act)

We have a legal obligation, covered by Section 25 of the Act, to consider including community benefit requirements in major contracts with a value in excess of £4million. However, we will consider including community benefit requirements for every Regulated contract, including those below £4million. Community benefit requirements will be used when they are relevant and proportionate to the nature of the contract and in this case, they will be contractual commitments.

Community benefit clauses will be considered where they directly link to corporate outcomes and have a direct, positive impact on the contract delivery. We will not use community benefit clauses to discriminate on the basis of a bidder's geographic base, but may use them to deliver benefits in a specific geographical area, for example targeted training and recruitment in a locality, local education support initiatives or community and environmental initiatives. These types of community benefits can be offered and delivered by any bidder in a tender process.

Other examples of community benefits we may seek to incorporate in our contracts include, but are not restricted to: supply chain initiatives/development; use of supported business and third sector organisations within the supply chain; voluntary initiatives; and support for equality and diversity initiatives.

Community benefits should aim to contribute towards sustainable economic growth, which may for example contribute to strengthening communities and fragile areas, or seek to deliver wider social benefit for the areas where the contract is being delivered.

(ii) General policy on consulting and engaging with those affected by its procurements (Section 15(5)(b)(ii) of the Act)

We will, as appropriate, consult with parties who may be affected by the outcome of our Regulated tender processes and may consider consultation with, for example: the marketplace; industry, statutory and other related bodies; customers and or end users; community representatives; and internal stakeholders.

Consultation and engagement will be conducted in an open, equal and inclusive manner and will assist us in meeting our obligations under the Act. The decision on when to consult and engage before a tender process will be taken on a contract by contract basis and may, for example, be undertaken when:

- We are preparing a new or replacement Land Management Plan, which will lead to associated Regulated contracts being placed;
- We are tendering for a new requirement or are changing our approach;
- The delivery of the contract may affect a local community for example during the construction of a new property which may result in access or noise issues or travel disruption;

- We expect a significant impact on end-users of the contract and may therefore wish to seek views from customers or end users;
- We want to investigate the possibility of including community benefits to a specific contract and need to understand the needs of a specific area or community, or the ability of the supply base to deliver certain community benefits.

(iii) General policy on the payment of a living wage to persons involved in producing, providing or constructing the subject matter of regulated procurements (Section 15(5)(b)(iii) of the Act)

We are not currently an accredited 'real' living wage employer but we are committed to obtaining Scottish Living Wage accreditation within this Procurement Strategy period. Although not currently accredited, we do pay – at minimum – the real Living Wage to our employees.

We will assess each new procurement process on a case by case basis to establish if payment of the real Living Wage is relevant and proportionate to the contract – this will be considered by UIGs as part of developing the tender strategy.

For some contracts, particularly in sectors that are vulnerable to low pay, we will assess whether payment of the real Living Wage to workers on the contract should be a condition of the contract. In making this assessment, we may consider it relevant where the following conditions are met:

- Where Fair Work First practices, including payment of the real Living Wage is relevant to how the contract will be delivered;
- Where it does not discriminate amongst potential tenderers;
- Where it is proportionate to do so; and
- Where the contract will be delivered by workers based in the UK.

We consider payment of a real Living Wage (as defined by the Living Wage Foundation) to be a significant indicator of an employer's commitment to fair work practices and one of the clearest ways that an employer can demonstrate a positive approach to its workforce. However, as indicated above, there are a range of elements which make-up Fair Work First and therefore it is not the only factor to consider.

We are also committed to ensuring contracts, where relevant, address Fair Work First elements in accordance with Scottish Government's Statutory Guidance and SPPN 6/2021. As such, we will apply the 7 elements of Fair Work First criteria in all procurement processes, where it is relevant and proportionate to do so. These are:

- Appropriate channels for effective voice, such as trade union recognition;
- Investment in workforce development;
- No inappropriate use of zero hours contracts;
- Action to tackle the gender pay gap and create a more diverse and inclusive workplace;
- Providing fair pay for workers (for example, payment of the real living wage);
- Offer flexible and family friendly working practices for all workers from day one of employment; and
- Oppose the use of fire and rehire practices.

Fair Work First will be relevant where the way the workforce are engaged impacts on the way the contract is performed and in particular, where the workforce make a significant contribution to the way the contract is delivered. This is most likely to be the case in particular Services and Works contracts.

When reviewing whether Fair Work First is relevant, the nature, scope, size and place of the performance of the contract will be considered. Alongside this, we accept that payment of a real Living Wage in our contracts may sometimes result in additional cost, however we support Scottish Government in its priority for sustainable and inclusive growth and as such, even in contracts where this is not mandated, we will include a statement encouraging its payment.

(iv) General policy on promoting compliance by contractors and sub-contractors with the Health and Safety at Work Act 1974 and any provision made under that Act (Section 15(5)(b)(iv) of the Act)

We recognise the importance of ensuring compliance with the Health and Safety at Work Act and other relevant health and safety regulations, including the requirement to engage reliable contractors who are familiar with this legislation; understand their responsibilities; and who are competent, operate safe systems of work and provide appropriate levels of supervision to those who are working under their control. We are also committed to ensuring that contractors are provided with appropriate information to enable them to produce suitable and sufficient risk assessments for the work activity under their control.

Given the operational nature of many of our contracts, health and safety is a fundamental aspect of our procurement and contract management criteria and activities. Relevant health and safety requirements are therefore considered and embedded throughout the procurement lifecycle, from tender strategy through to contract management, and they will vary according to the goods, services or works being procured. For example, we consider and incorporate the Construction Design Manual (CDM) requirements for construction and adopt the Forest Industry Safety Accord (FISA) requirements for harvesting and forest management activities.

Records of our decisions are maintained and relevant due diligence is undertaken at each stage, for example, certification checks are undertaken as part of the Single Procurement Document (SPD) verification and a detailed pre-commencement process is initiated for our high-risk operational contracts. This builds upon the information submitted in the tendering process to ensure appropriate arrangements are in place for the management of health and safety prior to work commencing and all health and safety information is site specific, up-to-date and effectively communicated to all those involved in the delivery and management of the contract. Ongoing site compliance checks are carried out as part of contract management activities, with relevant actions taken to address risk and non-compliance.

**(v) General policy on the procurement of fairly and ethically traded goods and services
(Section 15(5)(b)(v) of the Act)**

We take our corporate and social responsibilities seriously and, where relevant, consider the incorporation of fairly and ethically traded provisions in our contracts. To ensure appropriate application of ethical trading standards, UIGs will use lifecycle impact mapping methods to identify relevant employment, social and environmental risks and impacts that may exist for each Regulated tender. This process may also identify Fair Work First as a relevant criteria for the tendering process.

Our obligations under the Modern Slavery Act 2015 are also part of this wider context, and our goal is that everyone involved in our supply chains is treated fairly and without exploitation.

FLS is itself a trading body and as such, is subject to the requirements of the Modern Slavery Act 2015 and the need to produce an annual slavery and human trafficking statement, which can be viewed [here](#).

In developing each Regulated tendering strategy, the UIG will make use of the sustainable procurement tools and guidance to assess the requirement and any associated human trafficking or exploitation risks. The tools incorporate guidance on taking an ethical approach to procurement activity, taking account of human rights considerations including UN guiding principles. Outputs from the tools help our UIGs to embed relevant measures into specifications, tender criteria and contracts. This may include: seeking of particular certification from contractors; validating evidence of tenderer's slavery and human trafficking statements; evaluation of policies and processes which guard against exploitation; and/or contractual conditions which seek third party auditing or other transparency and due diligence measures.

In each case, where it is necessary, we will embed mitigating actions within tenders and contracts with the aim of reducing or removing the risk, or to create further transparency in the supply chain and contribute to the eradication of modern slavery, human trafficking and other complex risks within supply chains. These actions support our compliance with SPPN 3/2020.

We continue to build on our approach and raise awareness and staff competence, both within the procurement team and with those involved in contract management, with a particular focus towards those involved in procuring and managing any high risk contracts. This will include:

- Members of the procurement team undertaking the Chartered Institute of Procurement and Supply (CIPS) annual refresher training on Ethical Procurement Supply; including topics such as human trafficking, forced labour, bribery and corruption;
- Awareness raising for relevant FLS staff via E-learning- Let's Stop Human Trafficking.

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- (vi) General policy on how it intends to approach its regulated procurements involving the provision of food to:**
- (i) Improve the health, wellbeing and education of communities in the authority's area, and**
 - (ii) Promote the highest standards of animal welfare (Section 15(5)(c) of the Act)**
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We do not routinely conduct procurement involving the direct provision of food; however we support Scottish Government's commitment to grow the venison sector – [Beyond the Glen: A strategy for the Scottish Venison Sector to 2030](#) and as such, deer management by way of culling, is part of our land management activity and a proportion of this is carried out via regulated contracts.

For contracts of this nature we will promote the highest standards of animal welfare through our tender specifications, criteria and conditions of contract. This will ensure that products entering the venison supply chain meet the 'Stalking and Carcase Handling Standards for Scottish Quality Wild Venison Assurance Scheme' (SQWVAS). Contracts of this nature will continue to be closely managed by our Wildlife Management teams.

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- (vii) General policy on payments being made no later than 30 days after the invoice, (or similar claim) relating to the payment, is presented (Section 15(5)(d) of the Act):**
- (i) payments due by the authority to a contractor**
 - (ii) payments due by a contractor to a sub-contractor**
 - (iii) payments due by a sub-contractor to a sub-contractor**
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We are committed to the prompt payment of invoices, aiming to settle all undisputed invoices within contract terms and also in line with the Scottish Government's payment policy. Prompt payment clauses requesting 30 day payment terms are embedded within our contracts and these are required to be replicated throughout the supply chain.

As part of Scottish Government's continuing commitment to support economic recovery and sustainable economic growth in Scotland, we continue to aspire to a 10 day target for paying invoices to our suppliers, going beyond our commitment to pay suppliers within 30 days wherever possible.

We recognise the value of prompt payment through the supply chain and how this can affect cash flow positively or negatively; we will therefore embed all measures set out in SPPN 2/2022 with regard to prompt payment in the supply chain and we will respond to any issues raised formally by suppliers, sub-contractors and those further down our supply chains with regards to late or non-payment.

Our payment performance statistics will be published within our Annual Report and Accounts.



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