



Projects and Construction

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Sustainability in procurement – the legal context

The UK Housing Association sector spends nearly £3bn each year on products and materials for new build repair maintenance and improvement. The Audit Commission has said that procurement can be a powerful tool in securing greater value for money and for achieving business and environmental benefits. Housing Associations need to develop their procurement skills and knowledge in order to improve in particular the efficiency of their repairs and maintenance operations.

Effective supply chain management is crucial, with RSLs becoming actively involved in the chain of businesses that are providing a service or a product to achieve sustainable procurement.

Major players in the housing sector acknowledge that the housing slump is no excuse for failing to deliver energy efficient properties and a low-carbon future in particular to meet the challenge of zero-carbon by 2016; but this does require engagement with all the sustainability issues.

How can sustainable procurement solutions be achieved?

Any sustainable procurement solution needs to embrace procurement arrangements designed to lead to increased efficiencies; the timely engagement of all the key players in the construction process, particularly at the pre – construction phase; mutual clarity between all parties regarding allocation of roles, responsibilities, risks and rewards; and a collaborative approach to developing and managing the project.

Two-stage tendering is an effective mechanism that enables a more collaborative approach to be adopted by client procurers and their contractors while still delivering value for money. It can be used to achieve the early appointment of the contractor and the earlier involvement of the specialist sub-contractors and suppliers.

Sustainability requirements can be captured at tender stage. Qualitative evaluation criteria can be set; and methods of measuring performance against agreed KPIs including environmental and

sustainability KPIs can be incorporated into the contract documents.

Influencing sub-contractor and supplier sustainability initiatives

Through frameworks (incorporating parallel EU procurement) and other innovative procurement models it is possible to achieve sustainable procurement and to embed sub-contractor and supplier sustainability initiatives within a contractually binding structure. Sustainability then becomes integral to the scheme or provision of services and can achieve environmental waste efficiencies and recycling targets for example and provide value for money. The key is getting the specialists involved early.



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KPIs

The KPI process lends itself to the setting of clear environmental and sustainability KPI targets. The Egan Report of 1998 "Rethinking Construction" recommended the adoption of benchmarking as a method of improving performance in housing. 10 years on setting sustainability KPIs is still an evolving process and in terms of contractual structures a collaborative approach can be taken and sustainability KPIs and targets agreed with the supply chain and incentives built in. Regular reviews and action plans involving all the key players will enable an RSL and its supply chain to sustain targeted improvements and improve the ability to instigate improvements in the procurement process. Performance targets relating for example to the employment of residents and local people and to support local businesses can also be addressed early as part of the sustainable communities agenda.

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Whole life costing

Whole life costing is a powerful asset management tool available to the public sector. All the relevant cost of ownership can be reviewed over a defined time span – not just capital costs but also refurbishment, design fees, costs in use such as maintenance, cleaning, occupancy costs and environmental and sustainability issues as part of the whole life cost assessment. The public sector is well placed to lead on eg building performance modelling and developing and setting environmental targets for carbon and waste management and energy efficiency.

We can help you with:

- Incorporating sustainability requirements and proposals into contracts
- Setting measurable targets when dealing with your supply chain
- Using whole life costing and asset management strategies to meet sustainability target.
- Benchmarking and performance monitoring

Which Contract?

With NEC sustainability KPIs may be introduced by the use of KPI Option X20, although careful drafting is required to introduce sustainability KPIs as part of the provisions of partnering Option X12.

The JCT has recently added a supplemental provision into its 2005 suite of contracts to encourage contractors to suggest economically viable amendments to a project which may result in an improvement in environmental performance. New provisions also enable performance monitoring by reference to specified indicators which can be particularised to accommodate sustainability. JCT contracts still require substantial amendment to achieve adequate and contractually binding sustainability provisions.

PPC2000 has always had sustainability as a suggested KPI, and this has been enhanced in the amendments in the 2008 edition and has now been carried through into TPC 2005. All the forms now include definition of the measures that fall within the definition of "sustainability", which helps Partnering Team members agree practical objectives.

Sustainability and government

We can help you navigate through the whole raft of government policy and regulation covering sustainable construction coming from the OGC, DEFRA and BERR as well as from DCLG including the Code for Sustainable Homes; Energy Certification of Buildings; Site Waste Management Plans; government plans for Building Regulations and Energy Efficiency for 2010 and beyond; and the government's UK Sustainable Development Strategy and Sustainable Procurement Action Plan.

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