

# DSD/NIHE Contract Review 2014/15

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## 1.0 INTRODUCTION

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- 1.1 Under client requirement 9 of the Asset Commission a review of NIHE contract information was carried out.
  
- 1.2 The broad scope of the exercise involved reviewing a range of individual contracts with a focus on legal matters, contract continuity, transition planning, gaps in contract cover and whether or not future procurement planning mechanisms were evident and in place.

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## 2.0 APPROACH

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2.2 We obtained a copy of the NIHE Corporate Procurement Strategy June 2011 and the NIHE Standing Orders and Scheme of Delegation 2014. Both of these documents set out the management approach of the organisation and the operational requirement of the business.

2.3 We also met with a range of managers and staff from the following teams:

- Client Pre-procurement Team
- Corporate Procurement Unit
- Regional Property Managers
- Finance Team

2.4 A contract document room was established with either hard copies of current contracts or direct access to electronic copies of the contract documents.

2.5 A range of contracts were selected to reflect the contract value bandings identified by NIHE covering both works and professional services contracts. Supply or office management contracts were not part of the review.

2.6 We also requested copies of the NIHE corporate contract register, split into works and professional services, and a procurement planning timetable setting out contract/service continuity where a continuation of either works or professional service arrangements were deemed to continue.

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## 3.0 FINDINGS

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3.1 Our findings are covered within the following headings:

- Procurement Strategy
- Contract Documentation
- Contract Register
- Procurement Time Table
- Observations

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## 4.0 PROCUREMENT STRATEGY

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- 4.1 The Procurement Strategy was implemented in June 2011 and is the current document used within NIHE. We understand the document is currently under review within NIHE and will be aligned with the refreshed Asset Management Strategy in due course.
- 4.2 The strategy set out the broad objectives of the business and the contract format. NIHE's current approach is based on the NEC form of contract and where investment works or repairs and maintenance are required delivery would be via a 4 year framework arrangement. Once awarded to a group of approved contractors, dependent on the nature of work, further mini tendering competitions take place and the most advantageous bid is awarded the phase of work.
- 4.3 We suggest that NIHE may benefit from reviewing emerging best practice from other jurisdictions, with a view to adopting a more flexible approach to selecting the contract format. A similar review of contract duration is also advised, some modern landlords elect to extend contracts for up to 10 years, dependent on the nature and type of works required. This equally applies to the procurement of professional services.
- 4.4 This could reduce the amount of small works contracts currently being let as larger, longer and more comprehensive contracts would cover the majority of the landlords requirements within a broad based pricing schedule. It would also remove the mini procurement competition rounds currently being applied within frameworks. This would allow NIHE to work with contractors and professional services providers to creating a more efficient and productive relationship, securing value for money through streamlined management practices and the efficient planning and delivery of works and/or services.

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## 5.0 CONTRACT DOCUMENTATION

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- 5.1 We selected a range of contracts covering the contract value bandings adopted by NIHE. The contract documentation was of a good standard and reflected the works and professional services that NIHE historically sought from the market. NIHE use, in the majority of instances, internal and external legal advice prior to documents being committed to the market.
- 5.2 Based on the current operating model being applied within NIHE the documents reflect the objectives and management approach of the business.
- 5.3 We suggest the following should be considered when reviewing the current procurement strategy;
- Use of standardised pricing schedules where appropriate
  - Reduce the size of documentation used for small works into a more user friendly format, reflective of the value of works being tendered
  - Build customer requirements into the contract documentation reflecting the needs of the residents within the dwellings
  - Review the quality assurance processes and inspection requirements and stream line the overall process.

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## 6.0 CONTRACT REGISTER

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- 6.1 A copy of the contract register currently in use within NIHE was provided. The main contract register covers contracts relating to both works and professional services.
- 6.2 This is then split out into separate contract registers, one for works and the other professional service.
- 6.3 Base information is held against each contract identifying the following:
- Contract reference number
  - Contractor/service provider
  - Start and completion date
  - Contract value and where applicable annual spend value
  - Indication if contract will be renewed and the work or service continued
- 6.4 The above allows NIHE to consider works or service continuity and resource plan, giving consideration to expiry dates, and current contracting arrangements.
- 6.5 The contract register is under review and being refined to ensure it meets the requirements of the business. At this stage the basic information provides continuity planning and gives an insight into future procurement requirements and resource demand.
- 6.6 The register holds phases of work (or work orders) linked to live framework agreements covering both works and services. It is suggested that phases (or work orders) directly linked to a framework are not contracts as such and should be removed from the contract register at the appropriate time and tracked via the project monitoring tools used within NIHE.



6.7 As a cross check to ensure the register reflected the live contracts in place we requested information from the finance register identifying current works or professional service providers registered as live creditors. A tidy up of the ledger is required by the contract managers to ensure contracts are closed off on completion of works and final accounts. This should be done in line with standing orders creating a close match between the contract register and finance ledger, in line with good practice.

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## 7.0 PROCUREMENT TIMETABLE

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- 7.1 NIHE provided a draft of a procurement timetable directly linked to the contract register. This is work in progress at this stage and will be completed by the end of the summer.
- 7.2 Work is ongoing between the Client Pre-procurement Team and Corporate Procurement Unit to merge both functions into one procurement timetable. We are in support of this review as it will create an end to end timeline for the planning and delivery of future procurement requirements.

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## 8.0 OVERALL OBSERVATIONS

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8.1 The following are the principle observations noted during this review:

- A more streamlined structure should be considered, merging both the Client Pre-procurement Team and the Corporate Procurement Unit, providing a more joined up and efficient approach to procurement.
- Reduce the number of small works contracts through larger, longer and more comprehensive main contracts, and in particular the repairs and maintenance contracts.
- Move towards industry recognised schedule of rates as opposed to customised pricing schedules.
- Consider moving towards 5 to 10 year contract arrangements with appropriate extension periods built in based on efficiency and quality of service provided. For example 4+3+3 or a variable suitable to the business and contracting environment.
- Consider the use of alternative contract formats.
- Streamline the quality assurance process covering both pre and post inspection.

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## 9.0 CONCLUSION

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- 9.1 The quality of contract documentation reviewed reflect the environment within which NIHE operates, and they are broadly fit for purpose under the current procurement strategy and standing orders. Legal support is used throughout the procurement process and is available for day to day advice and support.
- 9.2 A contract register is in place covering both works and professional services.
- 9.3 A procurement time table is under development and will be complete by the end of the summer.
- 9.4 Work is required to align the finance ledger with the number of live contracts currently in place.
- 9.5 The current practices broadly reflect the procurement strategy and standing orders. We have provided commentary based on observations developed during the review process and suggest these should be considered as NIHE review and refine current practices and its approach to procurement.
- 9.6 The contract information reviewed broadly reflects, as far as we can tell, historic Priorities for the Government and NIHE's historic Asset Management Strategy. Obviously this will change as the Priorities for Government are refreshed and NIHE develops a new Asset Management Strategy. We understand that NIHE is preparing to refresh supplier arrangements at which point any new requirement for alternative supplier arrangements (i.e. mix of works, trades, skills or specialisms) or additional contract cover will be addressed.

9.7 Based on the information reviewed, should a requirement for a full or partial transfer materialise, NIHE does appear to have, at this stage, sufficient contract information to support detailed transition planning. NIHE's ability to undertake such planning will improve further once the refreshed procurement timetable is completed at the end of the summer. Industry standard clauses relating to novation, extension and termination etc appear to have been utilised routinely within NIHE contract documentation, providing the contractual mechanisms to support transition and/or transfer if required.