PROCUREMENT POLICY

AUGUST 2025

Reference	CS-CC-09
Information Classification	Public
Review Frequency	3 Years
Date Reviewed/Approved	Aug 2025
Next Review Due Date	Aug 2028
Applicable Committee(s)	Management Committee
Owner - role	Chief Executive/SMT

Record of Updates/Changes			
Current Version	**Date Approved**	**Approved By**	**Changes**
V3	**Aug 2025**	**Management Committee**	**Updated legislative references and reviewed internal approval limits**
V2	Aug 2022	Management Committee	CHA format, updated legislation and best practice since original policy was adopted
V1	April 2017	Management Committee	

SECTION A: OVERVIEW OF POLICY AND PROCUREMENT PRINCIPLES

1.0 INTRODUCTION

This policy and procedure document outlines the procedures which Castlehill Housing Association Limited and its subsidiaries (together referred to in this Policy as "the Association") will follow when procuring goods, services and works. Contractors, consultants, suppliers and professional organisations are all referred to within this policy as "contractors". This policy describes how contractors will be selected and awarded contracts by the Association.

All procurements undertaken by the Association must have regard to the terms of the Procurement Strategy and the values, objectives and goals set out in the Procurement Strategy.

2.0 RELATED POLICIES/DOCUMENTS

- Procurement Strategy
- Reactive and Planned Maintenance Policies
- Asset Management Strategy
- Equality & Diversity Policy
- Anti-Bribery & Corruption Policy
- Regulatory Framework (SHR) February 2019
- Whistleblowing Policy
- Staff & Management Committee Codes of Conduct
- Entitlements, Payments and Benefits Policy

3.0 OBJECTIVES

The objectives of this Policy are to:

- Ensure that the Association maximises value for money when procuring contracts;
- Ensure that the Association complies with all legal and regulatory requirements governing procurement and related best procurement practice when procuring contracts;
- Ensure that procurement accords with the requirements of the Association's policy in respect of payments and benefits;
- Maximise opportunities to jointly procure services on a collaborative basis with colleagues in other local registered social landlords and related organisations;
- Ensure that expectations of tenants, customers, staff, colleagues and other key stakeholders are met; and
- Ensure that the Association makes best use of the commissioning process and that there is sufficient flexibility to ensure expenditure can be increased and decreased as necessary within the financial year.

4.0 CONFLICTS AND DECLARATIONS OF INTEREST

In all written procurement/contractual documentation (including the approved provider list), it will be explicitly stated that any conflicts of interest (particularly those falling within the scope of the Entitlements, Payments and Benefits (EPB) policy), must be declared in advance of a contractual relationship being established. Any implications relating to payments and benefits will be brought before the Management Committee for determination.

In addition, if a relationship is created during the term of a contract that would fall within the scope of the EPB policy, this will be highlighted to the relevant Director and reported to the next Management Committee.

Any failure by a contractor to highlight a relationship falling within the scope of the EPB policy may lead to their exclusion from a public procurement exercise. They, and any associated businesses, may be subsequently disqualified from competing for current and future contracts. Legal advice will be taken where this is considered appropriate.

Any failure by a member of staff to declare an interest or highlight a relationship falling within the scope of the payments and benefits policy will be dealt with through the Association's disciplinary procedures.

5.0 CANVASSING, BRIBERY AND INAPPROPRIATE BEHAVIOUR

It should be noted that if at any time a contractor attempts to canvas, bribe or unduly influence a member of staff, Management Committee member or any other official or agent of the Association, then they, and any associated businesses, may be excluded from a public procurement exercise. Subsequently they may be subsequently disqualified from competing for current and future contracts. Legal advice will be taken where this is considered appropriate.

6.0 COMPLIANCE AND GOVERNANCE

Annual Report

The Association will produce a procurement strategy in line with legislative requirements and reports on regulated procurement activity will be provided to the Management Committee. The reports will include a summary of completed procurements, a review of compliance with the Association's procurement strategy and a summary of any community benefit requirements of any of the contracts.

Procurement & Commercial Improvement Programme (PCIP)

The PCIP now includes Housing Associations in addition to local authorities and is administered by Scotland Excel (SXL). The current PCIP focuses on the policies driving procurement and the results they deliver. Full current information on PCIP is found at:
https://www.procurementjourney.scot/pcip/pcip-overview

Freedom of Information

Procurement of goods, services and works is an area that is routinely subject to requests made under the Freedom of Information (Scotland) Act, 2002. The Association will comply with correctly submitted requests and respond within published timescales.

7.0 PRE-PROCUREMENT

Prior to procurement of goods or services or works falling within the scope of this Policy, consideration may be given to the following:

- Can the goods, services or works be provided in-house, is expertise and time available?
- Are alternative sources of goods, services, works readily available?
- Is there any special requirement for a particular contract to be undertaken impartially and independently?
- What are the expected benefits of seeking external provision?
- Is there a wish to test the market for cost and quality benefits?
- What are the risks from in-house vs. external provision?
- Can the project benefit from a collaborative approach?

The Association may also wish to undertake some form of pre-procurement market review or engage with suppliers in the particular relevant sector or market in order to better inform the Association's requirements from the procurement in question and way in which the Association will conduct that procurement.

Any pre-procurement market review exercise should be tailored to reflect the particular requirements of the Association and the market or sector in question but, by way of example, a pre-procurement market review may include:

- research to identify potential suppliers through peer group networking and benchmarking groups;
- review of information on procurement portals to identify similar work and interested suppliers;
- research with advisers and consultants to ensure the contract scope is properly defined and expressed; and
- informal approaches to potential suppliers to gain a fuller understanding of the Association's requirements and suppliers' capacity, capability and interest to meet such requirements. Any such approach is done "at risk" and does not imply that any supplier is being given preferential status or has input that would favour them in any subsequent tender exercise.

The Association makes use of national procurement frameworks such as SPA (Scottish Procurement Alliance) and PFH (Procurement for Housing) and local joint procurement frameworks with other RSLs for professional services such as architects, surveyors or other consultants.

8.0 ROLES AND RESPONSIBILITIES

The Management Committee
Is responsible for ensuring that the Association is compliant with legislative and regulatory requirements in respect of procurement and that policies and procedures ensure that this is the case. The Committee will be responsible for approval of any authority delegated to staff in respect of procurement activity and for ensuring that the policy remains up to date and consistent with legislative and regulatory requirements.

Senior Management Team (SMT)
Are responsible for application of the policy and procedure on a day-to-day basis and for ensuring that staff with a role in respect of procurement are briefed and aware of their responsibilities in the application of the policy and procedure.

Staff
Are responsible for ensuring that in procuring goods and services that they fully comply with this policy and procedures and that only those staff who have been trained in its application procure goods and services on behalf of the Association and then only within the extent of any authority given by virtue of this policy and procedure.

All staff have a duty to bring to the immediate attention of the SMT any act or omission (by any party to a procurement process) that would constitute non-compliance with this policy and procedure. Failure to do so without good reason will be dealt with under the terms of the Association's disciplinary policy.

Any queries regarding this Policy or any queries which arise during a procurement procedure should be addressed to the Chief Executive or in their absence another member of the Senior Management Team.

9.0 LEGISLATION AND OBJECTIVES

When procuring contracts for goods, services or works, the Association must comply with the Public Contracts (Scotland) Regulations 2015 ("the Regulations") ,the Procurement Reform (Scotland) Act 2014 ("the Act") and the Procurement (Scotland) Regulations 2016.

9.1 POLICY OBJECTIVES

The objectives of the Procurement Policy are:

- Ensuring compliance with all legal and regulatory requirements and related best practice when procuring contracts
- Ensure that the Association maximises value for money when procuring goods, services and works
- Ensure that the Association acts with transparency, equality of treatment and non-discrimination
- Ensure that procurement activity is in line with the Association's Entitlements Payments and Benefits Policy (EPB)
- Optimise opportunities for joint procurement and collaboration with local partner RSLs
- Ensure that expectations of tenants, customers and other key stakeholders are met
- Ensure that the Association makes best use of the procurement and commissioning process and that adequate resources are available via appropriate budgeting
- While the Association's annual turnover is below the £36M threshold regarding the "Transparency in Supply Chains" provisions in the Modern Slavery Act, we will wherever possible work with our suppliers to ensure that the intentions of the Act are met in their supply chains.
- Endeavor to ensure that the Associations' procurement opportunities are promoted and attractive to local suppliers of goods, services and works.

SECTION B: PROCUREMENT PROCEDURES

10.0 OVERVIEW OF DUTIES

Procurement Reform (Scotland) Act 2014

• A duty to publicly procure services / goods contracts over £50,000 in value and works contracts over £2m in value

• A duty to act in a transparent and proportionate manner and to carry out regulated procurement in a way that treats economic operators equally and without discrimination

• A duty to comply with sustainable procurement obligations

• Where procurement spend will exceed £5m in any year, a duty to publish a Procurement Strategy and review it annually

• Where procurement spend has exceeded £5m in any year, a duty to publish an Annual Procurement Report reviewing procurement activities in that year against procurement strategy

• A duty to publish regulated procurement opportunities and contract awards on the Public Contracts Scotland website

• A duty to consider community benefit requirements for all procurement with an estimated contract value over £4m

• A duty to provide feedback to unsuccessful bidders

• The duty to keep and maintain a publicly available contracts register

Public Contracts (Scotland) Regulations 2015

• A duty to publicly procure services / goods contracts exceeding the WTO GPA threshold of £213,477 and works contracts exceeding the OJEU threshold of £5,336,937.

• A duty to comply with the general principles of:

- Transparency – contract procedures must be transparent and contract opportunities should generally be published

- Equal treatment and non-discrimination – potential suppliers must be treated equally

- Proportionality – procurement procedures and decisions must be proportionate

- Mutual recognition – equal validity must be given to qualifications and standards from other Member States, where appropriate

• A duty to carry out the procurement in accordance with the requirements set out in the regulations

Procurement (Scotland) Regulations 2016

• A duty to carry out public procurement of contracts with a value over £50k for good / services and £2m for works but below the World Trade Organisation (WTO) Government Procurement Agreement (GPA) thresholds (see below) in accordance with the requirements set out in the Regulations which cover:

- How contract value is estimated

- Contract process (Prior Information Notices (PINs), contract notices, splitting contracts into lots etc)

- Rules for awarding contracts without competition

- Mandatory and optional reasons for excluding bidders

- Rules for preparing technical specifications

11.0 PROCUREMENT PROCEDURES UNDER LEGISLATION

Public Contracts Scotland - the contract notice, tender documentation and contract documentation must be published on the Public Contracts Scotland website. Tenderers should be advised to submit any clarifications through the Public Contracts Scotland website and these clarifications and answers will be available to all bidders to ensure transparency and anonymity. Tenderers will be advised to only submit their tender submissions through the Public Contracts Scotland website. A contract award notice must be published on the Public Contracts Scotland website

Documentation - the respective service manager, quantity surveyor or suitably qualified consultant will prepare a robust tender specification/project brief to be incorporated into the ITT. The template contract must be issued with the ITT (incorporating the Specification) and a contract notice prepared. All tender documentation should be approved by the appropriate departmental Director. The contract documentation shall be such as to give all tenderers sufficient and equal opportunity to submit relevant information and to enable the tenders to be evaluated on an equitable basis. Details and conditions for the services shall be set out accurately and concisely in order to avoid ambiguity and later disputes over interpretation of what is required under the contract. All tenders should contain a certificate of bona fide tendering (Appendix 2)

Receipt of Tenders - when the deadline is reached a departmental Director and/or Chief Executive and a senior member of staff from the respective service will be present during the electronic "opening" of all submitted tenders. If a tender is received after the deadline or there has been a failure to follow set procedures, this may render a tender invalid. However, where the breach of tender procedures is thought to be incidental, the Service Manager may accept the tender provided.

The tenders will be formally recorded in the appropriate tender book and all those who responded contacted and advised of the outcome. At no time will sensitive details of one tender be given to another contractor.

Evaluation - a written record of tender scoring should be kept and should have the detail of points awarded to each tender and should be signed by the member of staff that is scoring the tender bid. The evaluation panel should be appropriate in light of the type of contract to be awarded and may include the following as necessary: staff / Management Committee members / tenants / consultants / others with specialist knowledge of the service being tendered, financial expertise, personnel skills - where there are staffing implications. All persons appointed to the Evaluation Panel shall be required to declare any interest or connection with any individual, firm or company intending to tender for the provision of the required services. An appropriately qualified employee or consultant will make checks to ensure that the contractors are all measuring the same elements. Any

discrepancies will be checked, and if necessary, the relevant service manager or consultant will contact the contractor to ascertain if they are prepared to conform to all requirements without an amendment to the tender value (arithmetical corrections accepted). Where the contractor is not prepared to conform, their tender will be rejected.

Contract Award - following a recommendation by the relevant Service Manager or consultant, the tender will be accepted and signed on behalf of the Association by the department Director/Chief Executive. The relevant department will retain all paperwork for audit purposes.

12.0 GENERAL PROCUREMENT PRINCIPLES – ALL PROCEDURES

There are a range of general principles which apply and which must be considered by the Association in relation to procurement of all contracts, regardless of the estimated value of that contract and / or whether the contract needs to be procured in accordance with the terms of the Regulations or the Act.

The applicable general principles are as follows:

- No tender shall be accepted where there is insufficient or no budgetary allowance for the work or services to be carried out or the goods to be provided. In addition, the relevant officer will satisfy him/herself as to the financial viability of the contractor to complete major contracts prior to official acceptance.
- Any selection and award criteria which are used must be clearly specified in the tender documents – “selection criteria” are criteria that relate to the tenderer and are used to assess the tenderer's ability to perform the contract in question, as well as its financial standing and eligibility; “award criteria” are criteria that relate to the Association’s tender requirements and are used to identify the tender that is the most economically advantageous;
- Tenders will not normally be accepted purely based on the basis of the lowest priced tender. Quality, cost and ability to deliver an excellent customer focused product/service will all be a high priority for the Association;
- Where there is a genuine concern that the contractor tendering for the work will have to employ a number of additional members of staff who require training, this will be discussed prior to the tender award. At no time will a contractor be authorised to subcontract part of the tender work without the prior approval of the Association. Any intended joint working/sub contracting by a contractor should be clearly stated during the tender process. All contractors will be fully responsible as prime contractor for the work carried out on their behalf by a sub contractor;
- All Association staff must comply with the Bribery Act 2010 as well as the Association’s anti-bribery policy and any other relevant policies;
- All documentation must be retained on the appropriate file for a period of 3 years after conclusion of the tender exercise;
- An appropriate written contract must be used and this must be concluded with the correct legal entity (which must be correctly designed in the contract);
- Any complaint about, or challenge to, an Association contract award procedure or any situation which could be reasonably expected to lead to a complaint or challenge must be

notified to The Director of Finance & Corporate Services immediately on the Association staff member becoming aware of it;

- A description of all contracts entered into (and where possible before completion) will be provided to the Director of Finance & Corporate Services who will keep a central contracts register and will also be noted at the next relevant Management Committee meeting;
- Following the issue of contract specification documents, potential tenderers will have the opportunity to raise questions in writing, arrange meetings or undertake office visits to clarify any points relating to the service to be provided. All contacts from potential tenderers will be fully recorded and logged, including, for example, minutes of meetings. Any new information passed on to a tenderer as a result of any meeting or communication shall be conveyed to all other tenderers; and
- At no time shall details of prices or other sensitive information submitted by a contractor be disclosed to any other contractor.

13.0 PROCUREMENT OF CONTRACTS WHICH ARE UNDER THE THRESHOLDS SET OUT IN THE ACT – THE ASSOCIATION'S INTERNAL THRESHOLDS

Contracts with an estimated value below the thresholds set out in the Act do not require to be procured in accordance with the terms of the Act or the Regulations but must be procured in accordance with the requirements of this section of the Policy.

Range	CHA
< £2,000	No formal procedure. Work will be instructed via the most appropriate supplier on CHA's approved supplier list
£2,001 - £7,500	Minimum of two competitive quotations to be invited. Lowest priced contractor to be appointed.
£7,501 - £15,000	Minimum of three competitive quotations to be invited using standardised documentation and processes (for example, a specification and return date to be sent to all contractors being asked to provide costs). Lowest priced contractor to be appointed.
£15,001 - £50,000 (goods and services) / £2 million (works)	Formal tender process to be followed with at least three competitive tenders invited. Tenders to be opened by Service Manager and department Director or another member of the Senior Management Team. To be entered in the appropriate tender book.

The Association maintains a list of approved providers. In respect of all lower-value contracts, the Association must award contracts only to those contractors who are on the list of approved providers. Admission to the list will be instigated both where an organisation makes a speculative approach to the Association and is prepared to meet the criteria for admission set out below or where they have met the criteria prior to appointment through the commissioning process.

The only exception will be for contractors that will be used on a one-off basis for low value and low risk work or services up to £1,000.

The use of a contractor outwith the approved providers' list must be prior approved by the relevant Director except where there has been a formal competitive tender process.

A contractor may tender for work with the Association prior to admission to the approved providers' list. However, except where there has been a formal competitive tender process no contractual situation will be created without full compliance.

Requirements for admission to the approved list will vary from time to time but are likely to include:

- That public, employer's and, where required, product liability insurance is in place to the value determined by the Association;
- Financial viability (references may be required from the contractor's principal financial backer(s) and/or latest annual accounts);
- Appropriate registration (for example Company Registration number, appropriate professional accreditations, memberships etc);
- Policies that demonstrate a high level of customer and staff care (for example Health and Safety Policy and Equal Opportunities Policy/Statement); and
- Professional references (where the Association has no prior or recent dealings with the contractor, references may be required from three current customers).

Where there is any doubt as to either the financial viability of the contractor applying, or concerns regarding working practices, then further investigations may be undertaken by the Association prior to a contractual commitment being undertaken. In addition, restrictions may be placed on any contract award.

The Departmental Director will approve the admission of all contractors falling within the scope of this policy to the approved providers' list and their subsequent removal or restrictions due to performance related issues.

As well as contracting with a contractor who is on the Association's approved providers list, it may be possible for the Association to draw down services/ goods/ works under a framework which has been established by a third party. Using another party's framework agreement in this way to obtain services/ goods/ works can be an appropriate and cost-effective way for the Association to procure services/ goods/ works. Please see section 15 of this policy for further information about frameworks.

An appropriately qualified employee will make checks to ensure that the competitive quotations are measuring the same elements. Any discrepancies will be checked, and if necessary, revisions made.

In general terms, the cost of the necessary works should determine the successful contractor however it is expected that quality and ability to meet required deadlines would also be taken into account, where there has been concern regarding a contractor

13.1 CONTRACTS WITH AN ESTIMATED VALUE OF £2001- £15,000

Where three competitive quotations are required in line with the contract values in the table above, a more robust specification/ project brief will be sent out to contractors with a deadline of no sooner than ten working days to respond. The quotations should be returned in writing (email is an acceptable format) to the relevant officer and each acknowledged with a decision on the outcome for the respective contractor after the deadline has passed.

An appropriately qualified employee will make checks to ensure that the competitive quotations are measuring the same elements. Any discrepancies will be checked, and if necessary, the employee in conjunction with a senior member of staff from the relevant service, will contact the contractor to ascertain if they are prepared to conform to all requirements without an amendment to the quotation value (arithmetical corrections accepted). Where the contractor is not prepared to conform, their quotation will be rejected.

The competitive quotation (the total cost over the contract term) will be accepted and signed on behalf of the Association by the relevant staff member and as determined by their level of authority as set out in Castlehill's Financial Procedures.

In general terms, the cost of the necessary service/goods should determine the successful contractor. However, where there has been concern regarding a contractor performance in the recent past, and/or the quotations are similar, the decision rests with the officer requesting the quotations in conjunction with the relevant Service Manager.

The relevant department will retain all paperwork for audit purposes.

13.2 CONTRACTS WITH AN ESTIMATED VALUE OF £15,001 UP TO £50,000 (GOODS AND SERVICES) / £2 MILLION (WORKS))

Where a formal tender process is to be followed, a robust tender specification/ project brief will be prepared. Where appropriate this will be done by the relevant officer involved but may be by a more senior member of staff or suitably qualified consultant depending on the complexity of the project. Consideration should be given as to whether advertisement on Public Contracts Scotland ("PCS") is appropriate.

The deadline will be by no sooner than fifteen working days after the contractor would be expected to receive the documentation. Any request to have the deadline extended will only be considered if made prior to five working days before the deadline. Where an extension is given, this will apply uniformly across all contractors invited to tender.

All tenders will be returned by 2.00pm on the deadline, either by email to Castlehill's specified secure email address or by post/delivery in a sealed envelope using stickers provided by the Association detailing that the documentation is a tender, the deadline (date and time), the contractor involved, and that the documentation should not be opened at reception. Email submissions will be controlled to ensure confidentiality.

If a tender is received after the deadline or there has been a failure to follow set procedures, this may render a tender invalid. However, where the breach of tender procedures is thought to be incidental, the Service Manager may accept the tender provided.

The tenders will be formally recorded in the appropriate tender book and all those who responded contacted and advised of the decision.

An appropriately qualified employee or consultant will make checks to ensure that the contractors are all measuring the same elements. Any discrepancies will be checked, and if necessary, the relevant service manager or consultant will contact the contractor to ascertain if they are prepared to conform to all requirements without an amendment to the tender value (arithmetical corrections accepted). Where the contractor is not prepared to conform, their tender will be rejected.

The tender will be accepted and signed on behalf of the Association by the relevant Service Manager or the Director and in accordance with authority levels as set out in the Association's Financial Procedures.

The respective department will retain all paperwork for audit purposes.

- Where the terms laid out in the framework agreement are detailed enough for the purchasing authority to be able to identify the best supplier for that particular requirement, then the authority can award the contract without re-opening competition; or

- If the terms laid out in the framework agreement are not specific enough for the purchasing authority to be able to identify which supplier could offer them best value for money for that particular requirement, a further mini-competition would be held between all the suppliers on the framework agreement who are capable of meeting the need.

14.0 PROCUREMENT ROUTES

There are several procurement Routes/techniques that are open for the Association to use, the most common are listed below. More complex procurement routes may require specialist procurement consultancy, or advice on the use of a Procurement Framework such as such as Scotland Excel (SXL), Crown Commercial Services (CCS), Procurement Hub, Procurement for Housing (PfH), or Scottish Procurement Alliance (SPA).

14.1 Single Tender Justification Form (STJF)

The Single Tender Justification process may be used for the direct award of service and work contracts where the relevant criteria are met. The Single Tender Justification framework may be used in two distinct ways – a Specialist Supplier route and an Exceptional Circumstances route. It is important that the correct criteria and approach is used for these two approaches. Regardless of which criteria is used, the STJF (Appendix 1) must be completed and authorised for all awards.

Specialist Supplier Route – This direct award approach may be used where extensive research has proven that only one specialist supplier exists who can comprehensively deliver the Group's project or contract requirements. This direct award may be up to £15,000 (excluding VAT) and is subject to Director approval prior to any confirmation of the award being made. The STJF should clearly outline the business case and rationale used to justify the award.

Exceptional Circumstances Route – This direct award approach may be used in exceptional circumstances which require a prompt business decision, to secure a supplier, to deliver on value for money for the Association. This direct award may be used for contracts up to £15,000 (excluding VAT) and is subject to Director approval prior to any confirmation of award being made. As part of justifying such an approach, it would be a requirement that the market has been checked, with desk top research and comparisons carried out. Use of the Exceptional Circumstance Route must also comply with the following guidance regarding supplier quotations: -

- For procurement up to £7,500 – a minimum of 2 quotations required
- For procurement £7,500 - £15,000 – a minimum of 3 quotations required

For direct award of any contract over £15,000 and up to £50,000, approval from the Management Committee will be sought, using the STJF.

An exceptions report detailing when single quotations have been accepted and approved by the Chief Executive or member of the SMT will be provided to the Management Committee annually for all individual contract expenditure below £15,000.

14.2 Quick Quotes (QQ)

The Association may use the Quick Quote facility for the award of contracts valued over £15,000 and up to the value of £50,000. Quick Quote is an online quotation facility which allows contracting authorities to obtain competitive quotes electronically for low value requirements. Details of the QQ are created on the portal and distributed to a select list of suppliers. QQ are only distributed to the selected suppliers and are not made public on the portal.

14.3 Open (Single Stage) Procurement

The Open procedure is a one-stage procurement process which covers exclusion grounds, selection criteria and award criteria. An Open procedure means that any organisation can respond to the advertised Contract Notice, download the procurement documents and submit a tender. All tenders must be evaluated in line with the methodology and criteria set out in the procurement documents. An example of the use of this type of procurement would be the selection of a consultant to review of the Association's suite of HR policies.

The Open procedure is best used where:

- The requirements are typically straightforward, with a relatively simple Selection and Award process; and
- It is anticipated that only a small number of organisations will respond to the advertised Contract Notice

14.4 Restricted (Dual Stage) Procurement

The Restricted procedure is a two-stage process. Examples of the use of this type of procurement would be selecting a supplier to provide Gas Servicing or Reactive Repairs.

Stage One (Selection) - Suppliers are alerted to express an interest to a contract opportunity by obtaining and submitting a Standard Procurement Document (SPD); this will be used to establish their capability, experience and suitability etc. The purpose of the SPD is to select a shortlist of 5 (or more) suppliers which are likely to meet the tender requirements.

Stage Two (Award) - Shortlisted suppliers which meet the selection criteria are then invited to tender. All tenders are evaluated in line with the methodology and award criteria set out in the tender documentation.
The Restricted procedure is best used where:

- It is anticipated that a large number of suppliers will respond to the advertised Contract Notice; or
- The requirements are typically complex, with a relatively detailed Selection and Award evaluation process

Note – Following formal tender evaluation, all procured contracts will be recorded in the tender register and reported accordingly.

15.0 EXCEPTIONS TO THE REQUIREMENT TO PUBLICLY PROCURE A CONTRACT

There are certain exceptional circumstances in which tenders are not required for the procurement of goods, services or works, including:

- Where the tender may only be awarded to a particular supplier for technical or artistic reasons or where a particular supplier has exclusive rights which mean they are the only supplier capable of meeting the Association's requirements;
- Where the Association has already entered into a contract with a supplier and requires additional services or works to be supplied which were not included in the original contract but which, through unforeseen circumstances, have become necessary; and
- Where the Association wants a supplier with which it already has a contract to provide new works or services which are a repetition of works or services carried out under the original contract and such new works or services were provided for in the original contract notice

The above exceptions may only be relied upon in limited circumstances and are subject to a range of specific conditions. You must obtain the approval of the appropriate Departmental Director and obtain appropriate legal advice before relying on any such exception.

Single quotations shall be obtained, on the authority of the Chief Executive, for the supply of property or other goods of a special character, for which it is not possible to obtain competitive quotations. Or where specific circumstances make a competitive quotation situation impractical, for example, provision of specialist advice which is not commonly available. It may also be the case that procurement is required at short notice and where the lack of service or advice would affect realisation of a business opportunity.

In all instances the Association will work to achieve best value. These reasons must be documented. Situations such as these, it is expected, will be exceptional. Such a decision does not however, negate the requirement for a service specification document and formal contract with the service provider.

16.0 EMERGENCY SITUATIONS

Where the emergency Business Continuity Plan is in operation or there is a health and safety risk identified (for example there is damage to office space and/or systems, which may affect business continuity), the timescales given above may be relaxed to meet business requirements. For example

quotations/tenders may be requested sooner. In addition, authorisation may be given for senior members of staff to ensure they have authorisation limits that meet the requirements of the situation. These will be explained and detailed in the Business Continuity Plan being implemented or at the time a health and safety issue has been identified.

17.0 RENEWALS, EXTENSIONS AND CHANGES TO EXISTING CONTRACTS

A proposed extension, renewal or amendment to an existing contract may be considered equivalent to the award of a new contract if it constitutes a material change. If a change to an existing contract has the effect of creating a new contract, the Association may need to undertake a new competitive tender process in accordance with the Regulations or the Act.

Material changes to a contract are those which demonstrate the intention of the parties to renegotiate the essential terms of the original contract. Amendments to a contract may be regarded as "material" where they:

- Introduce conditions which, had they been part of the initial award procedure, would have allowed for the admission of tenders other than those initially admitted or would have allowed for the acceptance of a tender other than the one initially accepted – in other words, the new conditions would have potentially changed the participants in and / or the outcome of the original procurement process – examples include extensions or price increases;
- Extend the scope of the contract considerably to encompass services not initially covered; and / or
- Change the economic balance in favour of the contractor in a manner not provided for in the terms of the original contract – in other words, they make change which improve the contractor's position or alter the balance of risk under the contract in favour of the contractor – examples include extensions or price increases.

The Regulations restrict the Association's ability to modify publicly procured contracts. If you are thinking of modifying a publicly procured contract, please discuss in the first instance with the Director of Finance and Corporate Services.

Package Deals - this describes a situation where a developer approaches the Association and offers a site for development but on the condition that they are the developer and as such there is no competitive process in respect of the contract. All decisions to enter into a package deal agreement must be approved by the relevant Board / Committee and they will be required to demonstrate that such arrangements demonstrate best value for the Association taking into account operational and strategic considerations.

SECTION C: CONTRACT AWARD AND CONTRACT MANAGEMENT

18.0 CONTRACT DOCUMENTS TO BE ISSUED AS PART OF TENDER PROCEDURE

The Association should use the relevant standard template form of contract for its procurement. The relevant standard template form of contract should be reviewed and amended as appropriate to reflect the terms of the contract being required and the Association's particular requirements. Any amendments to the relevant standard template form of contract must be approved by the Director of Finance and Corporate Services before the form of contract is issued along with the tender documentation.

Where the Regulations apply (and in other cases as a matter of good practice), these draft contractual conditions cannot be amended after publication. As a best practice approach, any clarifications which you consider necessary in respect of written tender submissions should be dealt with during the tender process. That being said, there is limited scope to clarify minor issues with the successful bidder once they have been appointed. However, negotiation on price and material terms of the contract is strictly prohibited under the Regulations and before engaging in any post-tender clarifications you should take advice from either the Director of Finance and Corporate Services or the relevant department Director. Any negotiation of this nature will be in breach of the Regulations and would expose the Association to potential risk of a challenge by an unsuccessful bidder.

19.0 CONTRACT AWARD

Following evaluation of tender responses and application of award criteria, all tenders will be scored and a contract award decision will be made.

Contracts must not be awarded until such time as all required documentation is presented to, and checked by, the Association. For example method statements, risk assessments, etc. A suitably skilled employee/ consultant will undertake this task.

Payment for contracts shall only be made in accordance with the conditions contained within the contract specifications and on the submission to the Association of a detailed statement of account in an approved format.

Contract variations will only be accepted for payment on the provision of an approved Variation Order signed by the relevant Director.

All contracts shall be monitored in accordance with the procedures stated within the contract specification documents. Any issues will be immediately highlighted to the relevant Service Manager.

A formal Performance Review shall be undertaken at the end of every contract period to document the effectiveness of the service provided and to record the level of satisfaction with the contractor.

Before any service is subjected to a repeat tendering exercise a review shall be undertaken to assess:

- the benefits of further competitive tendering;
- qualitative outcomes;
- alternative options for the service provision;
- changes which should be made to the previous tendering procedure; and
- changes to the format and content of the specifications and tender documents.

20.0 CONTRACT MANAGEMENT

The Regulations restrict the Association's ability to modify publicly procured contracts. If any modifications are being considered to a publicly procured contract, this must be discussed in the first instance with the Chief Executive or other SMT member.

Where there is a material breach of contract this will be reported to the next relevant Committee.

In instances where there is reason to believe that:

- The contractor is going into receivership or administration;
- The contractor is actively looking to sell or merge its business; or
- The contractor is ceasing to trade, or threatening to cease trading

the Association will take immediate steps to formally investigate the above and if necessary, to take positive steps to minimise any potential detriment to the Association and its customers. This may include ensuring that another contractor completes current contracts. Where a merger takes place, an automatic transfer of all on-going contracts will take place only if the Association is clear that the same contract terms and conditions will be met. This includes levels of customer satisfaction.

Where the working practices of a contractor fall short of the standards expected by the Association, the Association will take steps to improve the situation. However, at no time will the Association allow its reputation to be diminished by the activities of a contractor and in this event; active steps will be taken to terminate any contracts held.

Where the above is suspected or taking place, then the Scottish Housing Regulator should be advised and in accordance with guidance in respect of 'Notifiable Events' published in 2019.

Appendix 1 : Single Tender Justification Form

WHY USE THIS FORM?

This form is to be used for the appropriate supply, services and works contracts. It can be used in exceptional circumstances;

- • Where only one specialist supplier exists that can deliver the project/contract;
- • Where the contract is of low value (below £10,000);
- • Where the proposed supplier has a unique set of skillsets, experience and knowledge.

If you believe that there is a justification for the award of a contract without a competitive process in accordance with UK, Scotland and Public Procurement Regulations, or the value is below £10,000 you are required to submit this Single Tender Justification Form (STJ Form) to the relevant Director for approval before confirming award of the contract.

In cases where only one specialist supplier exists, approval is required:

- By the relevant Director for expenditure not exceeding £10,000 (excluding Vat)
- By the Management Committee, for expenditure exceeding £10,000 (excluding Vat)

WHAT TO CONSIDER IN TERMS OF PLANNING?

If approval is not provided, you will be required to take further steps in relation to procuring the Contract. You must therefore ensure that your timetable (including the submission of this STJF), allows sufficient time to undertake a procurement exercise in accordance with the Regulations if necessary.

Where any of your Contracts awarded or proposed through this route are extended or increased in future with the same party you are required to submit a further STJF.

PROJECT INFORMATION AND JUSTIFICATION?

Project title

Proposed contract to be awarded (i.e. what is the purpose of the Contract, what will be delivered under the Contract, what are the proposed Contract outputs)

Proposed contract value (ex VAT) Annual Value
annually and over a typical 5-year period if a constant requirement?
5 Year Value

Proposed Supplier

Please demonstrate in a clear and comprehensive manner how you deem the Single Tender offers Value for Money (VfM)?
Think about what information you have in connection with costs to evidence VfM to use this supplier:

1. **Do we have historic costs that were openly tendered and reference this and dates?**

2. **The supplier has offered a detailed breakdown of hours, rates and materials including all costs associated and this is deemed VfM based on professional view?**

3. **We have costs of a similar service provision from another RSL that has been openly tendered**

Please demonstrate in a clear and comprehensive manner how you deem the Single Tender offers Value for Money (VfM)?
Think about what information you have in connection with costs to evidence VfM to use this supplier:
1. Do we have historic costs that were openly tendered and reference this and dates?
2. The supplier has offered a detailed breakdown of hours, rates and materials including all costs associated and this is deemed VfM based on professional view?
3. We have costs of a similar service provision from another RSL that has been openly tendered

Please explain in a clear and comprehensive manner
a) why the award of the Contract through a Single Tender route without any competitive process is considered lawful and appropriate?
b) detail the selection methods applied to identify the proposed Supplier

Think about the compelling argument to use this supplier, if there are other suppliers who could do this work example could be:
1. They are the only supplier that can undertake the project and why?
2. The supplier has a unique set of skillsets, experience and knowledge – Please Explain These
3. We have over 60% of the supplier's equipment in our stock?

Appendix 2: CERTIFICATE OF BONA FIDE TENDER

Tender for ……..

We certify that this is a bona fide tender, intended to be competitive, and that we have not fixed or adjusted the amount of the tender in concert with any other person. We also certify that prior to the official tender date we have refrained from any of the following acts:

(a) communication to a person other than the person calling for those tenders the amount or approximate amount of the proposed tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain insurance premium quotations required for the preparation of the tender.

(b) entering into any agreement or arrangement with any other person that he shall refrain from tendering or to affect the amount of any tender to be submitted.

(c) offering or paying or giving or agreeing to pay or give any sum of money or valuable consideration either directly or indirectly to any person for doing or causing or have caused to **be done in relation** to any other tender or proposed tender for the said work any act or thing of the sort of described above

In this certificate, the word "person" includes any persons and any body or association, corporate or unincorporated; and "any agreement or arrangement" includes any such transaction, formal or informal, and whether legally binding or not.

Signed as in tender **……**

For and behalf of **……**

……

……

Date **……**