

## **Procurement Policy**

## PROCUREMENT OF WORKS, GOODS AND SERVICES

### 1.0 POLICY AIM

1.1 West of Scotland Housing Association (WSHA) intends to work towards being recognised as a leading RSL for procurement activity, working creatively and collaboratively to support the local economy in our communities.

### 2.0 INTRODUCTION

2.1 This policy describes how WSHA will purchase, or 'procure' works, goods and services.

The term 'procurement' as used in this policy covers the process of purchasing the full range of works, goods and services we require, ranging from small items purchased from the petty cash float to large development and planned maintenance contracts awarded following a full tendering process.

2.2 This policy sets out how we will manage procurement in the Association and establishes an overall framework for the procurement process that consists of the following:

Document	Purpose
<b>Procurement Policy</b>	Establishes how WSHA's Management Committee expects procurement related activity to be undertaken by the organisation.
<b>Procurement Strategy</b>	The strategy sets out how the Management Committee's policy will be implemented, how it will comply with legislation and how it will contribute to WSHA's overall vision.
<b>Procurement Procedures</b>	This is a practical procurement guide and procedural document that WSHA staff can use to ensure that they are procuring on the Association's behalf in accordance with the strategy.
<b>Financial Regulations</b>	This document includes the levels of delegated authority that the Committee delegates to WSHA officers to undertake procurement.
<b>Scheme of Delegation</b>	This document includes the levels of delegated authority that the Chief Executive has and what levels require to be approved by Management Committee.
<b>Asset Management Strategy</b>	This strategy will influence what requires to be procured and when it is to be procured and informs a significant part of our Procurement Strategy.

2.3 In all our 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 provide the best value in the longer term, particularly when the contract being procured has a high degree of service delivery.

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

All our procurement will be sustainable and be assessed on a balance of price, quality and the positive impact on our community, whilst always being proportionate to the size of each individual procurement exercise. We will work creatively and collaboratively with partners to support the local economy in our communities and exploit opportunities for joint procurement initiatives.

2.4 To help achieve a sustainable procurement approach, we will;

- Consider how to facilitate and involve Small to Medium sized Enterprises (SMEs) in our procurement activities. To encourage SMEs to bid for contracts the Association will, for example, give consideration to splitting contracts into smaller lots. We will also develop a framework for our smaller reactive repairs contractors.
- Actively encourage contractors and suppliers to pay the Living Wage
- Promote compliance with the Health & Safety at Work etc Act 1974
- Consider and maximise the community benefits that we secure through all of our procurement activities
- Pay contractors in a timeous manner and ensure prompt payment of invoices (within 30 days)
- Ensure that our contractors and suppliers operate in an ethical manner

2.5 We will ensure that our procurement processes are fair and comply with legal requirements including European Union procurement rules and Scottish Government legislation, particularly the changes required by the Procurement Reform (Scotland) Act 2014.

2.6 The specific procurement approach adopted will be based on the nature, scale and value of the contract being awarded. Where tenders are being considered on the basis of price, quality and sustainability, a scoring matrix will be developed. For services, particularly consultant services the price/quality balance should be 30/70 as a minimum. For works, the price/quality balance should be 40/60 as a minimum.

The factors scored will vary depending on the nature of the goods or service being procured, with the weighting of the different factors considered and determined in advance. The scoring criteria will be included with tender packs.

- 2.7 In making procurement decisions we will also seek to contribute to maintaining and improving the environment, both by purchasing recycled or ‘environmentally friendly’, fair and ethically traded goods whenever possible and/or by supporting suppliers or contractors whose values and production processes are environmentally positive.
- 2.8 This policy supports WSHA in complying with some aspects of the Scottish Housing Regulator Regulatory Standards of Governance and Financial Management:

Standard	Guidance
<b>The RSL manages its resources to ensure its financial well-being and economic effectiveness</b>	The RSL has effective financial and treasury management controls and procedures, to achieve the right balance between costs and outcomes. The RSL ensures security of assets, the proper use of public and private funds, and access to sufficient liquidity at all times. (Guidance 3.1)
<b>The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation’s purpose</b>	The governing body identifies risks that might prevent it from achieving the RSL’s purpose and has effective strategies and systems for risk management and mitigation, internal control and audit. (Guidance 4.3)

### 3.0 Roles and Responsibilities

#### 3.1 Chief Executive

- Ensure effective implementation of this policy and supporting procedures;
- Ensure staff are aware of the policy and supporting procedures
- Ensure value for money from procurement activity is achieved
- Ensure community benefit arrangements are in place and are being monitored

#### 3.2 Director of Finance and Corporate Services

- Oversee implementation of this policy and procedure document
- Monitor implementation of this policy and procedure document
- Ensure relevant training is in place for staff
- Development and implementation of the Association’s Procurement Strategy
- Obtain VFM

#### 3.3 Director of Housing and Customer Services

- Oversee implementation of this policy and procedure document for his/her areas of responsibility
- Ensure community benefit arrangements are in place and being monitored

### **3.4 Corporate Services Manager**

- Co-ordination of Association wide procurement as per policies and procedure
- Development and review of procurement processes and procedures
- Work in partnership with relevant Section Managers to procure works and services
- Record and log all procurement activities
- Report to the Corporate Management Team, Senior Management Team and Management Committee the outcome of its procurement activity
- Implementation of the Association's tender programme
- Co-ordinate and publish the Association's Procurement Strategy
- Obtain and evidence VFM

### **3.5 Community Support Manager**

- Co-ordination of community benefit arrangements Association wide
- Monitor community benefit arrangements and ensure they are being implemented
- Evidence the impact of community benefit on our communities

### **3.6 Section Managers**

- Comply with the Association's Procurement Policies and Procedures
- Ensure all staff are aware of and comply with the policy and procedures
- Work in partnership with the Corporate Services Manager on all procurement activity which is £50,000 or above
- Implementation of purchase order system
- Obtain and evidence VFM
- Work in partnership with the Community Support Manager to ensure community benefit arrangements are in place

### **3.7 Finance Manager**

- Comply with this policy and procedure document
- Monitor purchase order system
- Monitor authorisation levels
- Carry out finance checks and assist with due diligence

### **3.8 All Staff**

- Comply with this policy and procedure document
- Obtain and evidence VFM

## **4.0 Relevant Legislation**

The Association has to comply with the following:

- EU Procurement Directives
- Procurement Reform (Scotland) Act 2014 (with reference to the Procurement (Scotland) Regulations 2016) (the "Act")
- Public Contracts (Scotland) Regulations 2015 (the "Regulations")

## **5.0 PROCUREMENT IN WSHA**

5.1 The main procurement areas relevant to the Association are as follows:

- Small items of office supplies or other consumable products
- All office printing, stationery, postage and other materials
- Office furniture and equipment
- ICT equipment and 'back-up' services
- Maintenance contracts related to office-based equipment or services, e.g. ICT equipment, fire and security alarm systems
- Professional services including internal auditors, external auditors, solicitors, bankers, insurance brokers, architects, design consultants, and management consultants employed on specific projects
- Contractors covering the full range of trades and professions in relation to the development, major planned maintenance, minor works, reactive and cyclical maintenance of our properties.

## **6.0 AUTHORITY TO INCUR EXPENDITURE**

6.1 Where the proposed expenditure is already included in the approved annual budget, the Committee will delegate the authority to incur expenditure to the appropriate member of staff, as detailed in the Association's Financial Regulations and summarised in the procurement tender approvals summary Appendix 1.

6.2 Where the proposed expenditure is not included in the approved annual budget because; it was not considered when the budget was drawn up, could not reasonably have been foreseen, or because the expenditure will result in an approved budget becoming overspent the Committee may delegate authority to approve expenditure up to specified limits, as detailed in the Financial Regulations.

6.3 The Audit Committee will review the levels of delegated authority at least every 3 years and ensure that there are adequate financial controls for procurement at all levels. In so doing the Audit Committee will ensure that levels of delegation remain relevant to current expenditure patterns, budgets and cost inflation and appropriate for effective governance.

## 7. FINANCIAL THRESHOLDS

- 7.1 The financial thresholds below which no quotations or tenders are required, and above which either written quotations or tenders are required, are detailed in the summary table in Appendix 1.
- 7.2 For the purposes of the Regulations RSLs are defined as Other Public Sector Contracting Authorities. From 1 January 2016, the financial thresholds which apply to Other Public Sector Contracting authorities are as follows;

- **€209,000** (£164,176) for supplies/services
- **€5,225,000** (£4,104,394) for works

All procurement above these thresholds must be published in the Official Journal of the European Union (OJEU) and EU procurement rules followed. The opportunity must also be advertised on Public Contracts Scotland (PCS) website.

The Procurement Reform (Scotland) Act also requires regulated procurement opportunities to be advertised on the PCS website when their estimated value is equal to or greater than the following thresholds;

- **£50,000** for supplies/services
- **£2,000,000** for works

Additionally, in line with procurement transparency and non-regulated procurement requirements, WSHA will follow sector good practice and for all opportunities with a value over £10,000 for services and goods WSHA will use the PCS website. This will allow the Association to develop a comprehensive Contract Register on PCS.

The only exception to this is where WSHA has a suitable framework already in place (internal or external).

These thresholds are laid out in Appendix 1.

## 8.0 COMMUNITY BENEFITS

- 8.1 Community Benefit Clauses can be used to build a range of economic, social or environmental conditions into the delivery of contracts. Community Benefits can provide added value and contribute to the achievement of outcomes which benefit local communities and deliver wider social benefit.

One of our stated strategic objectives for the Association's subsidiary Willowacre Trust is to tackle employability and financial inclusion. WSHA believes that it should lead by example by employing trainees, offering apprenticeships and providing work placements and we

therefore expects our contractors will provide this kind of community benefit. Projects and initiatives that stimulate the local economy will assist in the strengthening of our communities and long term sustainability.

- 8.2 The Association will comply with the legal duty for explicit Community Benefits clauses required on all contracts above £4m that commence on or after 1 June 2016.
- 8.3 Additionally, WSHA will also consider Community Benefits for all procurement when purchases are over £50k for goods and services, and over £500k for works. The Association recognises that Community Benefits must be proportionate to the value of the contracts being procured and that a one size fits all approach is not possible.
- 8.4 The Association will develop a specific policy statement on Community Benefits and develop in house guidance and training to support staff on securing maximum Community Benefits from procurement activity. Guidance will provide examples of Community Benefits (Community Benefits which can potentially be included as contractual clauses include, but are not limited to; targeted recruitment and training, small business and social enterprise development, support for community initiatives and community engagement), sample Community Benefits clauses for consideration during the design and development of tendering documentation and methods of monitoring and evaluation to ensure a consistent approach is embedded across the organisation.

## **9.0 OBTAINING PRICES, QUOTATIONS & TENDERS**

- 9.1 The summary table in Appendix 1 also sets out the different methods of obtaining prices, quotations and tenders that must be followed when procuring good and services. These methods are based on the value of the procurement and show the acceptable procurement method and the necessary level of approval.

### **9.2 Prices**

For items under the current cost limit which do not require quotations or tenders, the authorised member of staff will, where appropriate and/or possible, seek to check at least two alternative prices either by telephone, by accessing a current catalogue or price list, or by requesting details by e-mail.

### **9.3 Quotations**

Quotations should be requested in writing. The authorised member of staff will ensure that sufficient detail is provided to those invited to quote to enable accurate, comparable quotes to be received. Quotes

received must be recorded and filed in the central quote file (Corporate Services/Procurement/Quotes)

#### **9.4 Tenders**

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

Where the value of the contract sum is above the EU Thresholds tender reports and recommendations will be presented to the Management Committee for approval prior to contracts being awarded.

As outlined in 2.6 above some goods and services may be procured on a basis other than purely price e.g. price, quality and/or sustainability. Where this is the case, appropriate criteria and ratios will be agreed in advance of the procurement being advertised in the market.

#### **9.5 Opening Tenders**

All Tenders will be opened in line with the approved Financial Regulations and recorded within the Association's Tender Book.

### **10.0 CONTRACTS AND SERVICE AGREEMENTS**

10.1 We will ensure that written contracts and service agreements are in place for all works, services and goods procured. These will be recorded on the Contracts Register.

#### **10.2 British or International Standard Specifications and Codes of Practice**

Where appropriate every contract shall require that all goods and materials used or supplied, and/or all workmanship, shall be in accordance with: any relevant British or International Standard or Code of Practice which is current; a standard recognised by another Member State of the EU; or an International Standard offering equivalent guarantees of safety, fitness for purpose, and reliability. In all cases such standards shall be without prejudice to any higher standard required by the contract.

#### **10.3 Liquidated Damages and Guarantees**

Every contract which exceeds £50,000 in value or amount, and is either for the execution of services or works or for the supply of goods or materials otherwise than at one time, shall provide for a sum or sums of money to be paid by the contractor as liquidated and ascertained damages for the period of delay in completing performance of the contract by the contractor or supplier, unless in the documented opinion of the Authorised Officer, liquidated and

ascertained damages are inappropriate. An assessment of liquidated damages will be undertaken on a case by case basis. Liquidated damages will reflect a genuine pre-estimate of the anticipated loss.

Where in the opinion of the Authorised Officer a performance guarantee or any other security for performance of a contractor or supplier is required for a particular contract, supply, service or works then the required form of security shall be determined and approved by the Director of Finance and Corporate Services.

#### **10.4 Bribery and Corruption**

In addition, to the selection criteria used for tender exercises undertaken in accordance with the Act or the Regulations, there shall be inserted in every contract a clause empowering the Association to cancel the contract and to receive from the contractor the amount of any loss resulting from cancellation in the following circumstances: Where the contractor or any person employed by him or on his behalf:

- (a) Has offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for:
  - (i) doing, or for refraining from doing, anything in relation to either the obtaining of, or the execution of, the contract or any other contract with the Association; or
  - (ii) showing or refraining from showing favour or disfavour to any person in relation to the contract or any other contract with the Association; or
- (b) Has committed any offence under the Criminal Justice (Scotland) Act 2003, the Bribery Act 2010, or any other statutory offence. In the case of action as described above by a person employed by the contractor or on the contractor's behalf, the Association's right to cancel and recover loss shall apply whether or not the action is with the contractor's knowledge.

#### **10.5 Prohibition against assignation etc.**

In every written contract for the execution or work of the supply of goods and materials, clauses shall be inserted prohibiting the contractor from transferring, assigning or sub-letting, directly or indirectly, to any person or persons, any portion of the contract without the permission of the Association communicated to him in writing by the Director of Finance and Corporate Services.

#### **10.6 Termination under the Regulations**

In every contract entered into following a tender exercise under the Regulations there shall be inserted a clause empowering the Association to cancel the contract in the following circumstances:

(a) the contract has been subject to substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) (modification of contracts during their term) of the Regulations;

(b) the contractor has, at the time of contract award, been in one of the situations referred to in regulation 58(1) (exclusion grounds) of the Regulations, including as a result of the application of regulation 58(2) of the Regulations, and should therefore have been excluded from the procurement procedure at the time of contract award; or

(c) the contract should not have been awarded to the contractor in view of a serious infringement of the Treaties and the Directive 2014/24/EU that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty on the Functioning of the European Union.

In this clause, the "Treaties" has the meaning given in the European Communities Act 1972.

## **11.0 OTHER METHODS OF PROCUREMENT**

- 11.1 We will continually review our methods of procurement in order to achieve best value for money, meet our duty of sustainable procurement and to comply with current statutory regulations, Scottish Housing Regulator guidance and 'good practice'.
- 11.2 We will seek to develop mutually beneficial customer/supplier relationships, particularly with those local contractors and suppliers with which we wish to develop medium to long-term arrangements for the benefit of the Association.

## **12.0 EXEMPTIONS**

There are exceptional circumstances in which quotations or tenders shall not be required where the contract is for the procurement of supplies, works or services, including:

- where the contract may only be awarded to a particular supplier for technical or artistic reasons or where there are exclusive rights in respect of the required supplies, services or works; or
- where the Association has already entered into a contract with a supplier which requires additional works or services to be supplied and due to unforeseen circumstances:
- cannot be provided to the Association separately from the original contract without causing major inconvenience due to technical or economic reasons; or
- are strictly necessary for the later stages of the original contract, albeit they could be provided separately.

The above exceptions may only be relied upon in limited circumstances and you must obtain the approval of the Relevant Director before relying on any such exception. All contracts purchased through this route will be recorded in the Corporate Service manager's bi-annual report to the Corporate Management Team, Senior Management Team and Management Committee.

## **13.0 FRAMEWORK AGREEMENTS**

**13.1** In certain circumstances, it may be beneficial for the Association to establish framework agreements. This may be a suitable arrangement where you want to work with a number of contractors/suppliers for various projects over a period of time. Examples of this include Framework for Development Contractors and Framework for Development Consultants. Frameworks can be in place for no longer than 4 years and there needs to be an agreed and transparent process in place in order to allocate work within the framework e.g. mini tenders, award work by rotation etc.

**13.2** The full tender process would be followed for a framework agreement as above. Ideally you would be looking for a minimum number of contractors/suppliers on your framework and you would stipulate this in your tender documentation.

**13.3** Depending on the type of framework that you put in place, you may require to have different lots within the framework. A good example of this is the Development Framework for Consultants which includes different types of consultants. The relevant consultants would then bid for the lots that apply to them.

**13.4** The Association may also consider procuring works and services through Public Procurement Frameworks. Public Procurement Framework Agreements differ from standard framework agreements in that a public body has completed the procurement exercise following all legislation

and good practice. Public Procurement Framework Agreements take full account of VFM, community benefits, and environmental issues, the need for openness and transparency in the appointment process and comply with organisational objectives. Use of Public Procurement frameworks over regulated procurement values must be approved by Management Committee.

#### **14.0 CONTRACT MANAGEMENT**

- 14.1 All Contracts will be managed in line with the Association's Contract Management Policy and Procedures.
- 14.2 As per the above, a Contract Implementation Plan will be developed prior to the commencement of the contract.

#### **15.0 GROUNDS FOR EXCLUSION**

- 15.1 Due to further regulations that were introduced by the Scottish Government, that cover the use of minimum standard requirements, WSHA may have to consider additional factors during procurements.
- 15.2 These factors include: conviction of an offence; failure to comply with payment of tax or another statutory duty; misconduct or collusion to distort competition; lack of a necessary licence; non membership of a regulatory body required to perform the contract; insolvency or appointment of a receiver; or, poor performance in another regulated procurement.
- 15.3 Further guidance will be published by the Scottish Government which may include further assessment of potential suppliers relating to recruitment, remuneration and other terms and conditions, as well as Trade Union recognition.

#### **16.0 EUROPEAN SINGLE PROCUREMENT DOCUMENT (ESPD)**

- 16.1 A European Single Procurement Document (ESPD) is required for all above OJEU threshold procurements from and replaces individual contracting authorities Pre-Qualification Questionnaires (PQQs) . WSHA will use an ESPD document for all regulated procurement.

## **17.0 MODIFYING CONTRACTS MIDTERM**

17.1 The regulations introduce provisions with respect to the modification or amendment of above EU threshold contracts. These changes are aimed at avoiding the need for a further tendering process where unforeseen circumstances lead to further work needing to be added to the contract, and where it would not make economic sense to give the new work to another contractor.

17.2 The Association will only amend or modify after award where this is permissible. Permissible grounds include the following:

- Where modification is provided for as a contract condition and included in initial procurement documentation.
- For additional works, services or supplies where a change of contractor is not possible for economic or technical reasons. Any increase in price must not exceed 50% of the original contract value.
- Where the need for modification could not reasonably have been foreseen, does not alter the overall nature of the contract and does not exceed 50% of the original contract value.
- Where the modification does not alter the overall nature of the contract and is not substantial and does not exceed 10% of the contract value for goods and services, or 15% in the case of works.

17.3 These changes can be applied to existing contracts in place at 18 April 2016.

## **18.0 CONTRACTS REGISTER**

18.1 The Association maintains a Contracts Register recording contracts that have been awarded as a result of regulated procurement. Going forward the Association will use PCS for the majority of procurement and will develop the Contracts Register on PCS.

- Contract name
- Date of award
- Name of Contractor
- Type of contract
- Estimated value of the contract
- Start date
- End date and details of any extension

## **19.0 ANNUAL PROCUREMENT STRATEGY**

- 19.1 While there is currently no requirement for the Association to develop a strategy as currently the value of any anticipated procurement contracts in any one financial year is not £5m or above, the Association has developed a strategy which has been published on the website and submitted to the Scottish Government.

The strategy sets out how the Association's procurement activity will contribute to the organisations corporate plans and objectives and deliver VfM. The strategy also sets out how procurement activity will comply with the act in terms of the Association's sustainable procurement duty.

## **20.0 ANNUAL PROCUREMENT REPORT**

- 20.1 Each year, the Association will publish a report outlining what it has procured in the previous 12 months. This report will be produced as soon as possible after the end of the financial year and must be published on the Association's website. The report should include details on regulated procurements conducted during the financial year, if the procurement strategy has been followed and, if not, how it will be followed in future years, a summary of community benefits, steps taken to procure from supported businesses, and likely procurement requirements in the next two years.

## **21.0 Electronic Communication**

- 21.1 From the 18<sup>th</sup> October 2018 the Association will comply with the requirement for electronic communication relating to contract processes and will provide electronic access to tenderers for all procurement documents. This will be done through PCS.

## **22.0 MONITORING AND REVIEWING**

- 22.1 The Corporate Services Manager will ensure that this policy is reviewed annually and that the appendices are reviewed as necessary and revised if required.
- 22.2 The Management Committee will receive a 6 monthly progress report on procurement against the strategy.

## APPENDIX 1

### Procurement – Procurement Levels and Methods

We have frameworks (Consultants and Contractors) in place for Development. All development procurement should be tendered within the framework.

<b>Contract Value</b>	<b>Primary Procurement Method</b>	<b>Secondary Procurement Method</b>	<b>Contract Approval Levels</b>
<b>Good and Services 0 - £1,000</b>	Manager's discretion – VFM must be obtained	•	Senior Officer
<b>Goods and Services £1,000.01 - £10k</b>	• Three written quotes	• PCS Quick Quote	Manager
<b>Good and Services Between £10k - £49,999</b>	• PCS Quick Quote	• Mini Tender Procedure	Manager
<b>Good and Services Between £50k and EU Threshold (£164,175)</b>	• PCS Open or Restricted Procedure		Relevant Director
<b>Goods and Services EU Threshold (£164,176 and above)</b>	• PCS Open Restricted Procedure • ODJEU		Management Committee
<b>Works £20k or less</b>	• Three written quotes	• PCS Quick Quote	Manager
<b>Works Between £20k and £150k</b>	• Mini competition with procured contractors/framework	• PCS Quick Quote	Manager
<b>Works (excluding development) £150k to £2m</b>	• Mini tender within framework	• PCS Open or Restricted procedure	Relevant Director
<b>Works (excluding development) £2m to EU Threshold (£4,104,394)</b>	• PCS Open or Restricted procedure		Chief Executive
<b>Works (excluding development) EU Threshold (£4,104,394 and above)</b>	• PCS Open or Restricted Procedure • ODJEU		Management Committee