



**Muirhouse
Housing
Association**



**Muirhouse
Homes Ltd**

Policy: Procurement

Title of Policy:	Procurement Policy
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Lead Officer:	Paula Mcvay
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Scottish Social Housing Charter Outcomes and Standards:	4 Quality of Housing 13 Value for Money
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PROCUREMENT POLICY

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1. Introduction

- 1.1 The purpose of this policy is to set out the operational stages commencing with the Procurement Strategy Plan and Procurement Method Statement and leads staff through Procurement cycle to contract award. It has been developed to take forward MHA's Procurement Strategy and provides the framework for running all procurement activity.
- 1.2 Traditionally procurement activity has concentrated on specification and tendering however it is equally important to consider the full procurement experience from definition of service request through effective contract management, to learn from previous scenarios and build resilience into all procurement activities.
- 1.3 MHA undertakes to carry out procurement activities with best value for money as a prime consideration; an informed balance of cost, quality and sustainability. Also giving due consideration to our core values in relation to equalities, health and safety, corporate social responsibility. Refer to **Appendix 1** Scottish Model of Procurement.

2. Development of Procurement Policy Structure

- 2.1 This Procurement Policy has been developed in a changing procurement landscape and areas may require further documenting or clarification to ensure the whole process runs smoothly. In this respect it should be used as a guide, and ideas for refinements noted for further discussion and inclusion.

3. Responsibilities

- 3.1 The Chief Executive is responsible for implementing and following the Procurement Strategy and associated Policy and Procedures. Each procurement opportunity will be allocated a Procurement Lead to take it through the planning cycle, to ensure it is given relevant priority in terms of business viability, financial and staff resources, whilst continuing to meet legislative requirements and to ensure outcomes are recorded and acted on for future procurement opportunities.

4. Risk Management

- 4.1 Within our Risk Management Policy, the Risk Register gives a basis for assessing and monitoring risks. Embedding this Procurement Policy is part of our current controls to mitigate the following identified risks:
 - Failure to comply with Statutory Obligations and Regulations
 - Failure to provide Value for Money
- 4.2 The identified risks are considered acceptable with the current controls in place, as well as the planned controls, in the Risk Register and the regular reviews by the Audit and Risk Committee and Board carried out in line with our Risk Management Policy.
- 4.3 This Procurement Policy together with the Procurement Strategy Plan will be put in place to proactively manage the process to minimise the risks outlined above.

5. Procurement Strategy Plan

5.1 MHA will develop and maintain a three year procurement delivery plan covering contracts for each area of spend identified, updated on a rolling programme. The Procurement Strategy Plan (PSP **Appendix 2** will list our future Procurement requirements and highlight ownership across the range. The PSP will include:

- Contract Number
- Lead Team and Lead Procurement Officer
- Category and approximate spend for classifying if regulated
- Ideas for Community Benefit
- Requirement for Procurement services
- Approximate spend requirement over rolling 3 year programme

It will be reviewed bi annually by the Audit and Risk Committee and annually reported to the Board annually.

5.2 Staff will highlight new requirements as they arise to allow maximum time for market consultation.

5.3 In line with SFHA Guidance on Model Publication Framework, an extract from the Procurement Strategy Plan will be published on the MHA's website showing the value, scope and duration of all regulated procurement contracts, that is the EU and Scottish Reform Regime Tiers. This publication will include a copy of the MHA's Procurement Strategy and signpost to PCS portal and information on framework arrangements that we can access. If our expenditure on public procurement exceeds £5 million per annum, the Procurement Strategy Plan will be collated to form a report to the Scottish Government requirements.

6. Procurement Method Statement

6.1 The lead Procurement Officer for each journey will use the template Procurement Method Statement to work through issues and ideas to get to the selected procurement option and proceed to commence procuring the goods or works. See **Appendix 3** Procurement Method Statement.

7. ESPD (Scotland) Document

7.1 Through the EU a common European Single Procurement Document, also known as an ESPD (Scotland) document has been developed, across all EU nations, for collation of all necessary Pre-Qualification documentation from contractors and suppliers. This document must be used for all EU Procurements and should be used for all Scottish Regulated procurements. See **Appendix 4** Tiers of Legislation and Methods.

- 7.2 It has been designed to cover all the standard pre-qualification documentation that was frequently asked for at each and every tendering exercise and should be a cost effective route for contractors and suppliers to add their standard documentation to each tender opportunity. It covers many topics including financial ratios.
- 7.3 Questions in the ESPD (Scotland) document must not be re-numbered, re-worded or deleted. Where further specific information is required at pre-qualification, over and above that included in the ESPD (Scotland) document, additional documents may be added, and the lead Procurement staff should formulate these specific requirements in the Prior Information Notice or Contract Notice, and follow rules listed in the Scottish Government Procurement Journey web pages.
- 7.4 When populating questions throughout the ESPD (Scotland) all monetary references will be prefixed GBP instead of (£) for clarity.
- 7.5 Contractors and suppliers sign off the ESPD (Scotland) as a declaration that they comply, submit it with their tender bid and will only be asked to submit proof should they be successful in their tender bid, as part of the due diligence analysis of their bid.

8. Contract Notices on Public Contracts Scotland

- 8.1 All Contract Notices must be published on Public Contracts Scotland (PCS). PCS is the national advertising portal which provides suppliers with free access to contract opportunities.
- 8.2 When a notice is created in the Public Contracts Scotland (PCS) website it automatically creates a Notice on the Official Journal of the European Union (OJEU) if thresholds are reached.

Refer to **PCS Procurement Journey**

<https://www.procurementjourney.scot/procurement-journey>

8.3 Prior Information Notice

A dual function notice containing some basic information regarding the goods, works or service to be purchased, published in PCS (and OJEU if required) and used either:

to notify suppliers with information that there is a procurement process planned within the next 12 months, for early discussion with suppliers and assistance with development of specification

or

to take selected suppliers to tendering stage (PIN 30 + ITT 10 = 40 days)– cutting time on full ESPD/ Tender Stage process (ESPD 30 + ITT 30 = 60 days)

- The standard PCS PIN form will be used
- The PIN can be published up to twelve months in advance of the actual procurement exercise taking place

8.4 Contract Notice

The contract notice will contain the following information:

- The name and contact details of the lead buying organisation

- Who will be entitled to use the contract (particularly if the contract is being placed on behalf of a group of public bodies)
- The type of contract - that is, goods, works or services
- Description of the goods, works or services to be purchased
- The main commodity being procured, and any other items which are not covered by the main object category
- The procedure that the tender will follow
- The minimum standards, selection and exclusion criteria that apply to the contract
- The criteria against which the contract will be awarded
- Whether suppliers can offer a 'variant bid' - that is, an alternative way of meeting the requirements, will be specified in the contract notice. This can be a useful way for suppliers to innovate
- The total quantity or scope of the contract - this valuation will include all lots and all optional extensions
- The contract notice should also include any additional information to the ESPD (Scotland), for example :
 - Summarise community benefits required
 - Scoring and Award criteria

9. Operational Route

9.1 Preliminary market consultations

It should be noted that the Procurement Reform which became effective from April 2016, now allows organisations to look to contacts in the market place to discuss contracting options, sound out innovative ideas including smarter ways to do the job and to formulate specification. The market place should be the first sounding point for all our contracts and lead Procurement staff should build and maintain relationships with relevant contacts. This can be arranged through placing a PIN notice on PCS.

9.2 Suppliers, Contractors and Consultants

Where possible lead Procurement staff should notify existing suppliers and contractors that MHA will be publicly contracting, using PCS to allow them chance to gear up for chance of future works. A link to PCS will be included on the Procurement section of our web page.

9.3 Collaboration

The lead Procurement staff will establish whether any other organisation with whom MHA has or would consider carrying out a joint working project has a framework or a tendered contract that could fit requirements.

To enable this level of discussion MHA will regularly share information from its PSP through existing networks of local housing providers and local housing association forums.

9.4 Frameworks

Frameworks, that are already compliant with the OJEU rules, can be sourced to allow access to list of qualified contractors or suppliers who have already been screened for Most Economically Advantageous, have KPIs established, have a known focus on quality, functionality and values for money and have established

social and environmental benefits. The term of the frameworks must not exceed four years.

Frameworks can offer efficiencies in:

- Quick and efficient procurement save some time and expense of tendering
- Legally compliant with duties placed on set values of works and services
- Speedy access to evaluated companies, usually offering at least one often more than three suppliers
- Opportunity to award directly based on evaluation criteria – price, quality or the combination
- Confirmed competitive market price
- Instant access to project data
- Guaranteed service level from enquiry to supply
- High quality standards maintained throughout the project – wanting to be successful framework contractor for continuity of work
- Benefit that they can be used as market test without purchasing any works

They can however carry a premium charge or surcharge on the rate payable for the tendered goods.

The lead Procurement staff will identify whether there are any suitable frameworks through contacts with industry, other Housing Associations and contractors and suppliers, and keep a watching brief ahead of any required procurements. Refer to **Appendix 5** for a list of some Frameworks, note that there are other frameworks on the market that can be accessed.

The lead Procurement staff will check the details of the framework selected and be satisfied that the Association is an identified user.

9.5 Utilising Procurement Consultancy or Working In house

The lead Procurement staff will consider whether there is sufficient documentation available to formulate suitable Procurement information in-house or whether MHA requires the assistance of a Procurement expert.

It is hoped that through time the Association will build a sufficient library of documentation and expertise, to handle the majority of procurements in house.

The lead Procurement Staff should also consider minimum timescale required to run through key milestones:

- Initial discussion / meetings
- Preparations and issue of tender documents
- Advertising and posting on PCS
- Tender Period
- Answering of tender queries
- Evaluation stage
- Interview stage – shortlisted Contractors or Suppliers

- Appointment and contract finalised
- Feedback to successful and unsuccessful tenderers

9.6 **Lotting the Contract**

Consideration will be given to whether a contract should or should not be split into smaller lots. For example, a nationwide Housing Association should split a reactive maintenance contract into lots to allow smaller contractors to bid for relevant areas, whereas if no lots were set it would preclude the smaller contractor from tendering.

Additionally, lots should not be used to circumvent the threshold levels.

The Lead Procurement staff will take due consideration of the size and type of contract, and reference will be made in the Contract Notice

9.7 **Evaluation criteria**

All contracts will be awarded on the Most Economically Advantageous Tender (MEAT) principle, and this will therefore form the backbone of the evaluation criteria across all our procurement activity. The lead Procurement staff will consider what would make the most economically advantageous, taking into account sustainability over the life of the goods or works project.

Examples of evaluation criteria will be collated, and the lead Procurement staff will ensure that the criteria selected accurately reflect the content and anticipated outturn of the contract.

9.8 **Holding Contractor Interviews and Feedback**

The lead Procurement Officer or team will provide feedback both to successful and unsuccessful tenderers to allow them not only to have a better understanding of MHA's client requirements but also to improve the tendering process for all. The regulations allow specific timeframes to answer feedback and the lead Procurement staff will ensure that there is a member of staff available with access to the queries at all times to ensure adequate responses.

9.9 **Corporate and Social Responsibility**

Through the Procurement Reform (Scotland) Act 2014 the Scottish Government has imposed a Sustainable Procurement Duty on all Public Contracting Authorities to help move Scotland towards a circular economy:

Improve Economic, social, environmental wellbeing and reduce inequality in the Area – human, health and labour/ employment rights

Involve Small and medium enterprises and 3rd sector bodies including supported businesses

Promote Innovation

applying these criteria across all regulated Procurement exercises, whilst maintaining economic goals.

9.10 **Community Benefits**

The lead Procurement staff will consider the possibility of incorporating community benefits into the Procurement, whether relating to tenants, the locality, training and recruitment, sub-contracting opportunities, schooling or other economic, social and

environmental requirements, and should weigh up the likely overhead the contractor or supplier will put on the contract to include that benefit.

9.11 National Minimum Wage, National Living Wage and the Voluntary Living Wage

The lead Procurement staff will include reference to the National Minimum Wage (for those of school leaving age and above) and the National Living Wage (for those over age 25) as essential criteria for the award of the procurement contract.

In addition, it should be noted that MHA encourages the payment by Suppliers and Contractors of the accredited Living Wage to their staff, at least the new Voluntary Living Wage rates which are significantly higher than the national minimum wage. The payment of the Voluntary Living Wage should not be a specific consideration in the MEAT evaluation process.

9.12 Right to Work and Modern Slavery

The lead Procurement staff will direct bidders to MHA's standards required in terms of right to work by declaration that they have checked that all job applicants were allowed to work for the bidder in the UK before they were employed, and that this has been backed by inspection of relevant documents.

9.13 Prompt Payment of Contractors and Suppliers

The Procurement Reform legislation requires public contracting authorities to promptly pay commercial debt, and target 30 days. To ensure this filters through to Sub Contractors the lead Procurement staff will ensure that contract documentation includes a 'prompt payment' clause stating that valid invoices must be paid within 30 days of receipt at all stages of the supply chain relating to the contract.

9.14 Modifications of Contracts during contract term

The Procurement Reform legislation has set strict criteria on where extensions to contract terms may be considered. In addition a Non-Competitive Award (NCA) can only be approved where there is a genuine business need, which outweighs the requirement to tender, for example extreme urgency, one supplier, geographical area, exclusive rights or additional purchase.

The lead Procurement staff should consider criteria and the set provisions to be adhered to before making recommendation to the Chief Executive.

10. Information Requests

Freedom of Information (Scotland) Act (FOISA) and Public Procurement

10.1 Under the Freedom of Information (Scotland) Act, MHA may receive requests for information relating to our procurement process, information related to bidders or post contract award information.

We are keen to ensure transparency to provide reassurance that funds are being spent appropriately and that procurement is being conducted in a fair and non-discriminatory manner. However, we are aware that we need to protect the relationship between MHA and our contractors, encouraging trust and respect. We will therefore use the relevant exemptions under the legislation relating to commercial interests and may have to divulge any business-related information, not commonly known about our contractors which may give them a unique, competitive edge, such as their methodology and working practices.

- 10.2 In our tendering process, we will inform bidders of the potential for disclosure and ask them to highlight information that should not be disclosed and why via a FOISA statement. We will be clear that the decision with respect to disclosure rests with MHA and the bidders' submissions are not binding.
- 10.3 Throughout the tendering process and life of the contract tenderers will be required to be fully compliant with all aspects of the Data Protection Act 1998 and subsequent GDPR regulations which came into force in May 2018, this includes all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner. Tenderers will be required to promptly notify MHA of any breach of the security measures required to be in place. Non-compliance will be regarded as a material default entitling MHA to terminate any agreements with immediate effect. In all tender processes, we will ask bidders to sign OUR GDPR forms.

11. Monitoring, Review and Reporting

11.1 Procurement Review

A set of targeted questions for both the procurement lead and procurement delivery personnel will be listed in the Procurement Method Statement to collate relevant feedback for feeding into future Procurement cycles:

- Was procurement the best we can achieve
- What aspect can be improved
- Can future savings be anticipated
- Future procurement considerations including community benefits
- Feed back into the Procurement Strategy Plan following the bi annual review by Audit and Risk Committee.

11.2 Training Requirements

The Chief Executive will undertake an annual review of Procurement / budgeting and will flag up any future training requirement to ensure the team and the lead Procurement staff can continue to adequately meet the requirements of a Public Procuring Authority through attendance at industry conferences, training and workshop and through their own continued professional development.

12. Other relevant or related policies

12.1 This policy has been developed from the Procurement Strategy and should be read in conjunction with the following policies and procedures (this is not an exhaustive list):

- Risk Management Strategy
- Financial Regulations and Financial procedures
- Entitlements, Payments and Benefits policy
- Anti-Bribery policy
- Procurement Strategy
- Asset Management Strategy and Plan

APPENDIX 1

Scottish Model of Procurement

Through the National Performance Framework and Scottish Procurement Reform, the Scottish Government has focussed its current economic strategy on finding the right balance between cost, quality and sustainability as a means to support sustainable economic growth. These priorities are backed up with the concept of social responsibility and are illustrated in the Scottish Model of Procurement and underpin our Procurement Strategy, Policy and Procedures :

Scottish Procurement



Scottish Model of Procurement



APPENDIX 3

Muirhouse Housing Association

Procurement Method Statement

The designated Procurement Lead will take overall responsibility for ensuring the Procurement is listed in the Procurement Strategy Plan and for developing the Procurement Method Statement and for:

- Implementation
 - Recording details and monitoring progress and
 - Reporting on outcomes after the implementation of the procurement.
-

Procurement Title:

Project Lead: (The Lead Officer – responsible for overseeing the procurement delivery and for reporting on outcomes)

General Requirements:

Confirmed need or requirement / business case
Budget set
Consultation to the Procurement Strategy and Financial Regulations must be considered these are linked to this policy

Contract Requirements:

State budget/anticipated contract value
Length of contract proposed
Lotting
Charging schedule
Scoring criteria - Price / Quality split (Maximum price and splits must be agreed by Chief Executive)
Benefits/Savings expected
Existing contract / framework for refreshing
Collaboration / Agency Partner Use
Any framework meeting requirements
Use Scottish Government Procurement Journey Decision Matrix
Annual uplift – CPI etc
Governance / publicity
Tenant/Community Consultation

Procurement Timeline:**Working backwards**

Contract Commencement/ Start on Site/ Go Live date
Contract Award
Tender Appraisal
Tendering
Tender Notice / Public Contracts Scotland
Decision Open, Restricted, Negotiated
Finalise Documentation
Prior Information Notice / Informal market survey
Documentation and specification

Specification Details:

Existing contract
Specification development required

Framework Considerations:

Is MHA an identified user
Is MHA contract requirement in scope of the framework agreement
Rules / method for calling off
Terms and conditions
VFM considerations / framework competition process

Sustainable Procurement Considerations:

Corporate and social responsibility / Improve/ Involve/ Innovate
Ideas
Contract Specification – life of product
Choice of suppliers
Clauses in bid documentation
Targets for Contract Delivery

Community Benefit Considerations:

Ideas
Follow Associations procedure

Tender Documents:

Existing Contract
Consultancy assistance required
Charging schedule

Scoring criteria - Price / Quality split
 Most Economically Advantageous tender
 – best price-quality ratio based on price, cost, whole or life costs, life cycle costs

Public Advertising Route:

PCS timings
 Web page

Procurement stages, personnel involvement and timescales achieved:

Procurement Stage	Staff Involved	Completed
General Requirement	Procurement Lead /	
Contract Requirements	Procurement Lead	
Timeline	Procurement Lead / Team	
Specification Details	Procurement Lead / Team	
Community Benefit	Procurement Lead / Team	
Tender documentation	Procurement Lead / Team	
Charging Structure & annual uplifts	Procurement Lead / Team	
Scoring criteria	Procurement Lead / Team	
Advertising	Procurement Lead / Team	
Tenant/Community consultation	Procurement Lead / Team	

Date:.....Procurement Lead :.....

Amendments:

Future Procurement Considerations :

(collate relevant feedback for feeding into future Procurement cycles, and the Procurement Strategy Plan)

- Was procurement best can achieve
- What aspect do you feel can be improved
- Can you anticipate future savings
- Future procurement considerations including community benefits
- Future requirement for consultancy services
- Further ideas for noting
- Tenant/community feedback

Date:.....Procurement Lead :.....

APPENDIX 4 Tiers of Legislation and Methods

EU Regime		Scottish Reform Regime		Below the Regime
Public Contracts (Scotland) Regulations 2015		Procurement Reform (Scotland) Act 2014 / Procurement (Scotland) Regulations 2016		Applies to all Scottish public authorities when procuring works, supplies and services
WORKS : Construction and maintenance works				
Works £4,511,413		Works £2,000,000		Works up to £2,000,000
SUPPLIES : Goods, furniture, stationery etc				
Supplies £181,302		Supplies £50,000		Supplies up to £50,000
SERVICES : Consultancy, insurance, landscaping, legal services etc				
Services £181,302		Services £50,000		Services below up to £50,000
Must use ESPD (Scotland) as pre-qualification		Should use ESPD (Scotland) as pre-qualification		Can use ESPD (Scotland) as pre-qualification
Bidder not required to produce supporting documentary evidence until specifically requested – give equal validity to qualifications & standards from other EU states		Bidder not required to produce supporting documentary evidence until specifically requested– give equal validity to qualifications & standards from other EU states		
Bidder to be treated equally without discrimination		Bidder to be treated equally without discrimination		
Must act in transparent and proportionate manner		Must act in transparent and proportionate manner		
Must give reasons on lotting contracts		Should give reasons on lotting contracts		Consider implications of lotting of contracts
Community Benefits must be considered – reasons given for exclusion		Community Benefits should be considered no requirement to give reasons for exclusion		Community Benefits may be considered
Selection criteria & scoring methodology must be listed in the Contract Notice		Selection criteria & scoring methodology should be listed in the Contract Notice		Selection criteria & scoring methodology should be listed in the contract documentation
Sustainable Procurement Duty to be followed		Sustainable Procurement Duty to be followed		Work towards Sustainable Procurement Duty

Encourage Supported Businesses & supported employment programmes		Encourage Supported Businesses & supported employment programmes		
Publish Contract Notice – unless call off under existing framework		Publish Contract Notice – unless call off under existing framework		
Publish Contract Award notice		Publish Contract Award notice		
Debriefing of Bidders		Debriefing of Bidders		Consider Debriefing of Bidders
Maintain Contracts Register		Maintain Contracts Register		Consider maintain Contracts Register

EU regime Thresholds amended 10.01.2018 and apply through to 31.12.2019

APPENDIX 5 Frameworks

Frameworks, that are already compliant with the OJEU rules, can be sourced to allow access to list of qualified contractors or suppliers who have already been screened.

Listed below are some routes to possible frameworks are:

Scottish Procurement Alliance SPA and their parent organisation LHC **

Procurement for Housing ** (through Housemark)

Places for People Procurement Hub

Scotland Excel

Changeworks EST

** current membership / position to use