



Muirhouse Housing Association

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Policy: Procurement Policy

Our Vision, Our Mission, Our Values

Our Vision is an engaged, thriving, desirable and eco-friendly Muirhouse with high quality, truly affordable and greener homes.

Our Mission - We will provide high quality, truly affordable homes and services for residents and strengthen our engagement and partnerships to enrich the community and safeguard our environment.

Our Values - In upholding our central value of providing high quality, affordable homes and services, our behaviours and decisions will demonstrate our commitment to

Excellence: Ensuring the highest standards in all that we do and innovating to continually improve. Across the MHA Group, we are committed to providing a high quality, customer focused service that demonstrates value for money.

Caring: Being compassionate about and responding appropriately to the needs of our residents, staff, and Board.

Mutual Respect: Valuing the views, knowledge, expertise, and skills of others and collaborating to achieve good outcomes for residents, staff and the Association. We will continue to be a leading member of the local community, working with our customers and statutory, voluntary, and private sector partners.

This policy applies to

To the board and all employees of Muirhouse Housing Association.

Policy Summary

This policy sets out the procurement regulations which ensure that we meet our regulatory and statutory expectations. It provides the guidance and framework for procuring goods, services and works in ways which support obtaining value for money.

Equalities

Muirhouse Housing Association are committed to ensuring people or communities do not face discrimination or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

This document complies with our Equality, Diversity and Inclusion Policy.

Privacy

This policy has been developed and will be applied in compliance with General Data Protection Regulations (2018).

Compliance

SHR Regulatory Standards

Standard 2

The governing body leads and directs the RSL to achieve good outcomes for its tenants and other services users.

Standard 3

The RSL manages its resources to ensure its financial well-being, while maintaining rent at a level that tenants can afford to pay.

Standard 4

The governing body bases its decision on good quality information and advice and identified and mitigates risk to the organisation's purpose.

Standard 5

The RSL conducts its affairs with honesty and integrity.

Related Policies

Muirhouse Housing Association Rules

Standing Orders
Financial Regulations
Entitlements Payments and Benefits
Code of Conduct staff and board
Fraud and Corruption policy
Procurement Strategy (TBR)
Value for Money Strategy (TBR) Disciplinary Policy

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Section 2 – The Law and Best Practice

- 2.1 MHA is a registered social landlord (RSL) and is registered with the Scottish Housing Regulator (SHR), Financial Conduct Authority (FCA), and a charity registered with the Office of the Scottish Charity Regulator (OSCR). MHA's constitution is its rules.

This Policy will extend to any current or future subsidiary or legal partnership of Muirhouse Housing Association Ltd (MHA).

- 2.2 The Scottish Government complies with the European Community (EC) Treaty, which applies to all public procurement activity and is underpinned by EU Procurement Directives.

Fundamental principles from the Treaty include:

- transparency – contract procedures must be transparent and contract opportunities should be publicised.
- equal treatment and non-discrimination – potential suppliers, contractors, and consultants must be treated equally.
- proportionality – procurement procedures and decisions must be proportionate.

- 2.3 European Union (EU) Procurement Directives and implementing Scottish Legislation:

Regulated Procurements: Legislation must be complied with for contracts over the thresholds set out in **Appendix A**. The procurement of contracts above these values will be termed 'Regulated Procurements'.

Lower Value Regulated Procurements: The EU Directives are given effect in Scots law by The Procurement Reform (Scotland) Act 2014 which came into force on 18th April 2016. This legislation has introduced lower thresholds for contracts procured by public bodies, which are set out in **Appendix A**. The procurement of such contracts is termed 'Lower Value Regulated Procurements'.

Other Procurements: Contracts that fall below the value for 'Lower Value Regulated Procurements' do not need to comply with EU or Scottish procurement legislation. However, there is an over-arching requirement of EU Directives that probity be demonstrated at all times when public bodies procure services, supplies, and works.

- 2.4 European Court of Justice and national case law

Decisions of the European Court of Justice and the UK and Scottish national courts provide interpretation of the requirements of the EC Treaty and the EC Procurement Directives and can establish precedents which must be observed. This is constantly evolving; MHA will ensure that it has appropriate arrangements in place to ensure that members of staff involved in procurement activity are kept up to date with developments in the legal framework.

2.5 The Scottish Housing Regulator

The Scottish Social Housing Charter is aimed at helping to improve the quality and value of the services that social landlords provide. The Charter includes key outcomes relating to procurement:

- Outcome 13 – Value for Money - Social landlords manage all aspects of their businesses so that:
 - *tenants, owners, and other customers receive services that provide continually improving value for the rent and other charges they pay.*

2.6 Scottish Government Guidance

The Scottish Government has developed comprehensive procurement guidance for public bodies to improve the quality of and value delivered through procurement of public contracts in Scotland. This guidance can be accessed on the following website through the Procurement Journey:

<https://www.procurementjourney.scot>

This policy should be read in conjunction with the following Policy documents:

2.7 Corporate Strategic Plan

MHA Prepares a 5 Year Strategic Business Plan, which is updated annually and sets out:

- The vision, aims and key strategic objectives for MHA.
- The main actions to be completed over the duration of the plan and how these complement the relevant key strategic objectives.

The approved business plan and budget sets out the expenditure levels for all functions within MHA.

2.8 The Purchasing Procedure and Delegated Authority

These documents set out the procedure to be followed and authorisation levels for:

- Selection and appointment of suppliers, contractors, and consultants.
- Form of contract and terms and conditions:
- Payment.
- Approved spend level of all staff.

2.9 Risk Management Policy

MHA recognises that risk is an inevitable part of our work, and effective risk management optimises the balance between risk and control. The Risk Management Strategy sets out:

- Risk management process.
- Key roles and responsibilities.
- Procedures for assessment, evaluation, monitoring and reporting.

2.10 Asset Management Strategy

The Asset Management Strategy sets out how MHA will ensure the long-term sustainability of all housing stock. It sets out, but not limited to:

- Details of housing and non-housing stock.
- Investment plans for existing stock.
- Regeneration plans including future build projects.
- Risk Assessment specific to these activities.
- An 'Options Appraisal' process to be followed where significant issues are identified with any of the housing stock.

Section 3 – Policy Objectives

3.1 The objectives of this policy are to ensure that MHA are able to clearly demonstrate that:

- Value for money has been achieved, both in the commissioning of individual contracts, and as an organisation as a whole;
- All suppliers, contractors, and consultants appointed are qualified and competent, have sufficient resources and arrangements in place, and are committed to improving the services provided to MHA customers;

- We are committed to protecting the health and safety of our employees, customers, members of the public, and suppliers/contractors/consultants employees;
- We promote both continuous improvement and innovation in the delivery of services to customers;
- We are committed to improving equalities, and the social and economic prosperity of the communities in which we work;
- We ensure equal treatment of all suppliers, contractors, and consultants, providing confidentiality of all information received from them, transparency, and proportionality for all aspects of the procurement process.

Section 4 – Implementing Policy Objectives

4.1 MHA must fully comply with EU, UK and Scottish Government Public Procurement Regulations, which are;

- Public Contracts (Scotland) 2012.
- European Union Public Contracts Directive 2014/24/EU1
- Procurement Reform (Scotland) Act 2014.
- Public Contracts (Scotland) Regulations 2015.
- Procurement (Scotland) Regulations 2016.

Due to the minor differences between the legislation for ‘EU Regulated Procurements’ and Scottish ‘Lower Value Regulated Procurements’, it is our intention, as far as practicable, and in order to avoid confusion, to follow the full EU compliant processes for all contracts above the ‘Lower Value Regulated Procurement’ thresholds. See **Appendix A** for the procurement levels.

4.2 Contracts below the ‘Lower Value Regulated Contracts’ threshold will be procured in accordance with the Procurement Policy following the same overall principles in terms of demonstrating probity and value for money, and in a manner proportionate to the nature of such smaller contracts. See **Appendix A**.

4.3 Procurement Strategy

Procurement includes the acquisition of goods, services, and works from third parties, whether under formal contract or otherwise. MHA procures a wide range of goods, services and works.

The total value of contracts procured by MHA annually is below the £5 million legislation threshold, which removes the requirement to report on the Procurement Strategy.

In terms of the planning and delivery of the procurement of goods, services and works, we will prepare and maintain a Procurement Strategy, which will be reviewed annually and submitted to the Board for approval and will be approved prior to the start of each financial year. This will contain, as a minimum, information on planned 'Regulated Procurements':

- being undertaken in compliance with principles of equal treatment, non-discrimination, transparency, proportionality, and mutual recognition.
- being undertaken in compliance with the sustainable procurement duty.
- contribute to the carrying out of our functions and the achievement of our key strategic objectives.
- delivering value for money.
- prompt payment compliance.

In addition, our Procurement Strategy will set out our general policy on:

- Community benefit requirements.
- Consulting and engaging with those affected by our procurements.
- The payment of a living wage to persons involved in producing, providing, or constructing the subject matter of regulated procurements;
- Promoting compliance by suppliers, contractors (and sub-contractors), and consultants with the Health and Safety at Work etc. Act 1974 and any provision made under that Act.
- The procurement of fairly and ethically traded goods and services.
- Ensuring prompt payment within 30 days of invoices for goods and services.

We will complete and submit an Annual Report against completed procurements, which will be evaluated against these key factors. This will be distributed as soon as practicable after the end of each financial year.

We will maintain a Contract Register for "regulated procurements" covering goods, services and works procured by the organisation, the value and duration of the contract, and the supplier, contractor and consultants appointed. This will be made available on request.

4.4 Roles and Responsibilities

The key roles and responsibilities in relation to the procurement of contracts by MHA are illustrated below:

Board of Management/Chief Executive	Provide appropriate governance and organisational arrangements. Ensure resources in place have the necessary skills, guidance, and support.
Manager	Ensure that staff are in place, are organised, and managed effectively to deliver the procurement requirements efficiently.
Officer	Deliver requirements in compliance with legislation, policies, strategy, achieving best value for the business.

The overall Procurement function will be led and overseen by the Chief Executive, with the Manager of the relevant department responsible for procurement of their contract, whose primary role will be to:

- develop, promote, and implement appropriate procurement strategies and plans, including receiving authority to procure.
- assess procurement competencies and establish training needs.
- ensure professional, qualified procurement advice.
- contribute to the aims and objectives of MHA, and take account of business priorities and policy requirements;
- ensure value for money is achieved.
- ensure adherence to this procurement policy, current legislation, and best practice.
- support sustainability and community benefit throughout the procurement process.
- measure and report on procurement performance.

4.5 Compliance with Procedures

MHA will comply with the Scottish Governments procurement journey and the use of frameworks and dynamic purchasing systems

The supporting Procurement Procedure document contains the requirements and guidance for the use of both regulated and unregulated routes.

4.6 Central Purchasing Bodies (3rd Party Framework and / or DPS providers)

MHA will consider procuring contracts through a 'Central Purchasing Body' provided that Value for Money can be demonstrated through this method of procurement. A Central Purchasing Body is a public body that has procured a contract for specific works, services or supplies on behalf of themselves and/or other public bodies.

MHA will satisfy itself that all EU and Scottish procurement legislation has been complied with by the Central Purchasing Body prior to entering into any contract arrangement or agreement through this alternative route.

Section 5 – Performance Management

- 5.1 MHA operates within a performance management framework which reports to, and aims to meet the requirements of our tenants, factored owners, Board of Management, the Scottish Housing Regulator, and the Scottish Social Housing Charter.
- 5.2 As required by Section 31 of the Housing (Scotland) Act 2010, the Scottish Social Housing Charter sets out the standards and outcomes that all social landlords should aim to achieve when performing their housing activities.
- 5.3 Internally, performance will be monitored regularly by the Chief Executive. The Procurement Strategy sets out the arrangements and monitoring commitments, along with reporting periods to the Board and our tenants.

Externally, the Scottish Housing Regulator will monitor performance in terms of outcomes and standards achieved in line with the requirements of the Scottish Social Housing Charter. MHA annually submits key performance information on our achievements to the Regulator.

Section 6 – Development and Training

- 6.1 All staff directly involved in procurement will be suitably trained and competent to carry out these activities.
- 6.2 All staff will undertake any additional training or external courses that are deemed necessary to fulfil their duties.
- 6.3 We will ensure that suppliers, contractors, and consultants working for MHA are qualified to supply goods, services, or works relevant to a procurement in a compliant, sustainable, and safe manner at all times.

Section 7 – Dealing with Complaints

- 7.1 Any complaints received from either customers, suppliers, contractors, or consultants as part of a procurement will be used to help improve our services.

All complaints will be dealt with through our Complaints Handling Procedure.

Section 8 – Review Procedures

- 8.1 This policy will be reviewed annually as a minimum and will be updated based on substantive changes in legislation, regulatory requirements, or business requirements.

Section 9 – Confidentiality and Data Protection

- 9.1 We will ensure that the requirements of The Data Protection Act 2018 are fully always met.
- 9.2 Where applicable, all contractors and consultants will be required to sign a data sharing agreement.

APPENDIX A – PROCUREMENT THRESHOLDS

1.0 WTO GPA Procurement Regulated Contract Thresholds (Public Contracts (Scotland) Regulations 2015):

Supplies	£177,897
Services	£177,897
Works	£4,447,447

N.B All figures are current as at 1st January 2022 and are exclusive of VAT.

2.0 Scottish Government (Lower Value) Regulated Contract Thresholds (Procurement Reform (Scotland) Act 2014):

Supplies	£50,000
Services	£50,000
Works	£2,000,000

N.B All figures are current as at 1st January 2022 and are exclusive of VAT.

3.0 MHA Procurement Limits:

Value	Action
Below £5,000 (<i>Rare or infrequent low value spend</i>)	The relevant authorised Manger has discretion to decide whether competitive quotations are obtained. Good practice must be observed, and where possible (time permitting), competitive quotations must be sought using a risk assessment evaluation.

	Direct Awards are permitted where work is classed as an emergency, or poses a significant Health & Safety risk, and where no existing contract or arrangement is in place.
Between £5,000 and £49,999 <i>(Irregular but medium spend)</i>	A minimum of three competitive quotations received, use of the PCS e-tendering Quick Quote service, or use of an existing Framework or Dynamic Purchasing System (DPS). Record the tendering procedures followed. Procurements which fall within this category must be risk assessed using a Procurement Plan and duly authorised by a manager and or Chief Executive.
£50,000 and above <i>(Regular and high value spend)</i>	Regulated tendering procedures will be always followed, and use of the PCS e-tendering platform is mandatory. Use of existing 3 rd party Framework or DPS's allowed following evaluation and Chief Executive approval.

Exceptions to the above are as follows:

- where a developer, or other party, brings a unique land and planning opportunity to MHA, and the terms of the proposed arrangements will require MHA to contract with them or another named company directly.
- where works of the same scope or similar nature are added to existing contracts, based on a schedule of rates or model contract, as long as they do not exceed 50% of the original value.
- where works and services are procured where no satisfactory alternative is available, which results in a single source procurement.
- where works and services are only available from a limited number of providers due to the specification requirements, in which case, a minimum number should be invited to quote or tender;
- where goods and materials are of a proprietary nature, and no alternative is available;

APPENDIX B – CAPITAL PROCUREMENT

1.0 Introduction

The procurement of property services, works and consultants constitutes a major part of MHA's budget expenditure. The particular requirements related to this area are set out in this appendix.

2.0 Selection and Appointment of Consultants (Projects)

2.1 Approved List of Consultants

MHA operate and maintain an Approved List of Consultants. The minimum entry requirements will be set within the procedures for "Approved List of Consultants".

A standard application form will be used for all consultants who wish to join the approved list. The minimum criteria for inclusion on the Approved List will include technical capabilities, appropriate experience, suitable professional indemnity insurance, equality of opportunity, a health and safety policy and references. All professional and technical services, including design services, will be provided by members of the appropriate Chartered professional bodies, and able to produce evidence thereof.

Applications will be considered for a full range of consultancy services, including, but not limited to:

- Architectural
- Quantity Surveying
- Building Surveying
- Structural Engineering
- Civil Engineering
- Heating and Renewables
- Mechanical and Electrical
- Employer's agent
- PR and Media
- Housing Strategy

The list will remain permanently open, and the approval of additions and suspensions will be delegated to the Asset Manager.

2.2 Selection of Consultants

All consultant appointments above the Regulated threshold limits will follow the Regulated Procedure, except where the consultant is part of a project sponsored by a 'design and build' developer.

Appointments below the Regulated limits will be based on the Approved List of Consultants and using the unregulated internal procedure.

The selection process for consultants from the “Approved List” will consider the following matters:

- Specification of the project and planned works.
- Options for the procurement route.
- Estimated contract values and associated fees.

The tender list for projects which require Professional Services providers will be selected by the Asset Manager and approved by the Chief Executive.

3.0 Appointment of Contractors

All contractor appointments above the regulated threshold will follow the regulated procedure and be tendered using the PCS e-tendering platform system on an SPD and Quality/Price basis, except where it has been agreed to use a 3rd party Framework direct award route or mini competition. Dynamic Purchasing Systems (DPS) will also be considered if advantageous to do so.

Appointments below the Regulated limits will be based on the non-regulated procedure, except where it has been agreed to use a 3rd party Framework direct award route or mini competition. Dynamic Purchasing Systems (DPS) will also be considered if advantageous to do so.

The selection process for contractors below the threshold will be based on:

- Specification compliance.
- Qualifications, certification, and relevant experience.
- References.
- Financial stability.
- Cost.

The performance of appointed contractors to projects or programmes will be monitored and reviewed at the end of each contract, or annually for longer term contracts.

4.0 Financial Thresholds

MHA will use the PCS e-tendering portal for procurements as well as utilising 3rd party Frameworks and Dynamic Purchasing where it is deemed beneficial to do so.

4.1 Expenditure below £5,000.00

Does not require competition, however staff and consultants acting on behalf of MHA have a duty to achieve value for money and must retain appropriate evidence of this. Three written quotations is the minimum where time limits allow.

4.2 Expenditure in excess of £5,000 and below £50,000

This may take the form of *written* quotations, where a formal competitive tender, would result in disproportionate administration costs, unacceptable delays, or inefficiencies. At least three quotations should be sought using MHA's Approved List of Consultants, and use of the PCS Quick Quote System or 3rd Party Frameworks or DPS's.

4.3 Non-Regulated Procurement Expenditure of £50,000 to £2,000,000 (Construction /

Development Works Only)

- **Requires a minimum of three formal competitive tenders to be invited.**
- The selection of Contractors must be procured using the PCS eTendering portal using either a one or a two-stage selection procedure.

4.4 Regulated Procurements

Procurement must be in accordance with the EU and Scottish Public Procurement Regulations and Legislation.

5.0 Single tender action

Exceptionally, where tender or competitive quotation is not practical (e.g., for the supply of specialist equipment or services), fixed price services or in cases of extreme emergency (e.g., to remove a risk to public safety), single tender procurement may be authorised by the Chief Executive up to £50,000. Above this level, any proposal for single tender will require the prior approval of the Board.

6.0 Follow-on appointments

Where a contractor is required to undertake follow-on work directly related to a previous contract, which was awarded on a competitive basis, and the contractor is the best equipped to carry out the required work, reappointment without competitive tender is permitted subject:

- with prior written approval of the Chief Executive.
- not exceeding the Regulated Procurement threshold.

The possibility of a follow-on appointment should be considered at the time of the original competitive tender and, if appropriate, provision for an extension option should be made in the contract.

7.0 Contractual Arrangements

All instructions to Contractors to undertake work will be in writing and will include as a minimum a description of the works, the agreed price, timescale for completion, and terms and conditions.

Building works will be instructed on the basis of a formal exchange of letters referring to the contract documents.

Where a partnering arrangement is the chosen procurement route then the main contractor will be party to the partnering charter. Sub-contractors may be invited to become parties to the partnering charter, which must be approved prior to commencement.

8.0 Payment of Contractors and Consultants

MHA will ensure that all payments are made promptly within the period stated in the contract. Where there is no contract or the contract does not stipulate the payment period, then all valid invoices for work satisfactorily completed will be paid within 30 days of receipt.

9.0 Code of Conduct for Contractors

We require that all Contractors comply with MHA's policies and procedures where applicable when carrying out work on behalf of the organisation. This will be performance managed by the Asset Manager and reported to the Chief Executive regularly.

10. Emergencies

Where, in exceptional circumstances, due to an emergency situation, it is necessary to make a quick decision, the Manager or Chief Executive shall have the authority to appoint consultants or contractors out with the Procurement Policy and this action will be presented at the next board meeting for review.

APPENDIX C – OTHER PROCUREMENT

1.0 Introduction

The procurement of supplies and services, other than building / construction works, which involves significant expenditure, MHA must demonstrate both value for money and compliance with procurement regulations. The particular requirements related to these procurements are set out in this appendix.

MHA must comply with the following:

- Public Contracts (Scotland) 2012.
- European Union Public Contracts Directive 2014/24/EU1
- Procurement Reform (Scotland) Act 2014.
- Public Contracts (Scotland) Regulations 2015.
- Procurement (Scotland) Regulations 2016.

MHA will, as far as practicable, follow the compliant processes for all contracts above the 'Lower Value Regulated Procurement' thresholds. See **Appendix A** for the procurement levels.

Contracts below the 'Lower Value Regulated Contracts' threshold will be procured in accordance with Procurement Policy following the same overall principles in terms of demonstrating probity and value for money, and in a manner proportionate to the nature of such smaller contracts. See **Appendix A**.

Before tendering for the supply of goods and services there are several factors to consider:

- Does the Manager or Officer have the authority to procure the goods and or services;
- Is the procurement necessary, and is there budget available;
 - Is it essential?
 - Have alternatives options been considered?
 - Is there a robust and approved business case?
- The third area to consider is the availability of an existing Contract Agreement (in accordance with its terms & conditions) which meets the procurement regulations, and thus avoids a separate additional procurement.

2.0 Financial Thresholds

MHA will use the PCS etendering portal to procure all commissions and contracts over the value of £50,000 for goods and services, and £2m for construction /

development works, as well as utilising 3rd party Frameworks and Dynamic Purchasing Systems where it is deemed beneficial to do so.

Contracts will be openly advertised and be subject to either a one stage or a two-stage process. The portal and advertising regime may be used for lower value contracts, where appropriate.

The Chief Executive will review and approve notices prior to publication. Route 1 has been designed to be used by staff across the Scottish public sector who have a requirement and are authorised by their Organisation to conduct low value/low risk/non repetitive procurement for goods or services

2.1 Expenditure below £5,000

Does not require competition, however staff and consultants acting on behalf of MHA have a duty to achieve value for money and must retain appropriate evidence of this. Minimum of three written quotations is required where time limits allow.

2.2 Expenditure in excess of £5,000 and below £50,000

This may take the form of written quotations, where a formal competitive tender, would result in disproportionate administration costs, unacceptable delays, or inefficiencies. At least three quotations should be sought using MHA's Approved List of Consultants, and use of the PCS Quick Quote System or 3rd Party Frameworks or DPS's.

2.3 Regulated Procurements (those in excess of £50,000)

Procurement must be in accordance with the EU and Scottish Public Procurement Regulations and Legislation.

3.0 Single Tender Action

Exceptionally, where tender or competitive quotation is not practical (e.g., for the supply of specialist equipment or services), fixed price services or in cases of extreme emergency (e.g., to remove a risk to public safety), single tender procurement may be authorised by the Chief Executive up to £50,000. Above this level, any proposal for single tender will require the prior approval of the Board.

4.0 Follow-on Appointments

Where a contractor is required to undertake follow-on work directly related to a previous contract, which was awarded on a competitive basis, and the contractor is the best equipped to carry out the required work, reappointment without competitive tender is permitted subject:

- with prior written approval of the Chief Executive.
- not exceeding the Regulated Procurement threshold.

The possibility of a follow-on appointment should be considered at the time of the original competitive tender and, if appropriate, provision for an extension option should be made in the contract.

5.0 Contractual Arrangements

All procurements must be subject to placing of an order, written instruction, or form of contract where subject to tendering.

6.0 Payment of Suppliers

MHA will ensure that all payments are made promptly within the period stated in the contract. Where there is no contract or the contract does not stipulate the payment period, then all valid invoices for work satisfactorily completed will be paid within 30 days of receipt.

7.0 Emergencies

Where, in exceptional circumstances, due to emergency or special circumstances, it is necessary to make a quick decision, the Manager or Chief Executive will have authority to procure supplies and services out with the Procurement Policy and this action will be presented at the next board meeting for review.