

Melville Housing Association



Policy: Procurement

Subject:	Procurement
Section:	Property Services
Objective:	To provide the Association with clear principles and guidelines for selecting contractors, consultants and suppliers, who may carry out work and provide services and goods to the Association
Scottish Social Housing Charter	Outcome 13 – Value for Money
Relevant Legislation	European Community Procurement Directives 2014 Procurement Reform (Scotland) Act 2014 Public Contracts (Scotland) Regulations 2015 Procurement (Scotland) Regulations 2016
Issue Date:	April 2020
Review Date:	April 2023
Policy Ref No:	PRO 009

1.0 Principles

- 1.1 This Policy will be used to achieve Best Value for Melville Housing in selecting contracts, recognising that the lowest cost will not always represent Best Value.
- 1.2 This policy complies with all relevant legislation including Procurement Reform (Scotland) Act 2014 and is guided by Public Contracts (Scotland) Regulations and Procurement (Scotland) Regulations 2016.
- 1.3 This policy recognises the guiding principles to address fair work practices, as set out in the Statutory Guidance for Selection of Tenderers and Award of Contracts issued by the Scottish Government (October 2015).
- 1.4 This policy shall be interpreted in accordance with the principles of openness, equal treatment, non-discrimination and transparency.

2.0 Staff

2.1 All members of staff involved in procurement must:

- behave in a professional manner and in particular, comply with the terms of the Association's policies in respect of staff conduct and gifts and hospitality,
- treat all contractors, consultants and suppliers equally and without discrimination
- report any actual or potential conflicts of interest and / or breaches of procurement procedures to their Line Manager.

2.2 The Association operates in accordance with a set of delegated authorities detailing the process for authorisation and certification of expenditure on procurement of works, goods and /or services.

Expenditure on procurement may only be authorised by members of staff to whom appropriate authority has been delegated and only on such items, and within the financial limits, as set out in the Association's Standing Orders (GOV 001) and the Authorisation of Expenditure and Documents policy (GOV 010).

3.0 Legal Framework

3.1 The European Community (EC) Treaty applies to all public procurement activity regardless of value, including contracts below the thresholds at which advertising in the Official Journal of the European Union is required.

The EU Directives are given effect in Scots Law by the Procurement Reform (Scotland) Act 2014 which came into force on 18 April 2016.

The Procurement Reform (Scotland) legislation has introduced lower thresholds for contracts secured by public bodies, which are set out in **Appendix A**.

The procurement of such contracts is termed 'Lower Value Regulated Procurements'.

Contracts that fall below the value for 'Lower Regulated Procurements' do not need to comply with EU or Scottish Procurement legislation, however it is recommended that the same overall principles regarding Best Value and Value for Money are demonstrated in a manner proportionate to the nature and scope of smaller value contracts.

3.2 Guidance for Procurement

The Scottish Government has developed comprehensive procurement guidance for public bodies to improve the quality and value delivered through procurement.

This guidance is available using the following link:

<https://www.procurementjourney.scot/node>

This link includes a decision matrix that we will use to determine the most appropriate means to procure the goods/services or works contracts as necessary and we will also follow the detail in the table below as guidance when considering services.

Contracts where value is less than the Lower Value Regulated Procurement thresholds

Estimated Value of Contract	Authority
Up to £5,000	Individual orders authorised by Property Manager, Housing Manager or Finance Manager
More than £5,000 and up to £50,000*	At least 3 competitive quotations and approved by a Director or Property Services Manager.

* The Directors or the Property Services Manager may assess the extent and complexity of the service to be provided (up to £50,000) and determine when a tendering exercise using Public Contract (Scotland) will be more practical.

4.0 Process

4.1 For contracts that exceed the Lower Value Regulated Contract Thresholds, Melville will post contract notices on Public Contract Scotland website (www.publiccontractsscotland.gov.uk), except

where the anticipated contract total exceeds the thresholds published by the European Union (EU) contract notices will be posted in the Official Journal of the European Union (OJEU) and we will follow the guidance and timescales set out in the relevant EU directive.

When contracts do not exceed the Lower Value Regulated Contract Thresholds we will identify and invite suitable suppliers to submit tenders (or quotations if more practical) for prescribed services.

- 4.2 We will place all documents relating to the contract and tender on the PCS website for potential bidders to consider before posting a Note of Interest.
- 4.3 For all regulated contracts the Association will follow guidance set out in the Procurement (Scotland) Regulations and we will use either of the following tendering procedures:
- Open procedure
 - Restricted procedure

Open procedure

- 4.4 The open procedure is a straightforward 'one stage' tendering procedure. The assessment of suppliers and their qualifications to undertake the contract takes place at the same time as the evaluation of their tender submission. The Open procedure requires that Invitation to Tender Documents must be issued to all suppliers who request the documents.

We will set out criteria in the Invitation to Tender documents to inform suppliers how we will prepare a short list of contractors for the final selection stage (interview) from an initial assessment of the submitted tenders.

Restricted Procedure

- 4.5 The restricted procedure is a two-stage tendering procedure, suitable where the Association wants to limit the number of suppliers who are invited to tender. The assessment of suppliers and their qualifications to undertake the contract is carried out as an initial 'pre-qualification' stage (previously the PQQ).
- 4.6 The European Single Procurement Document (Scotland) or ESPD (Scotland) replaces the PQQ.

It is mandatory to use the ESPD (Scotland) where the estimated value is equal or greater than the OJEU thresholds however, guidance recommends that it is now used for **all** regulated procurement.

- 4.7 ESPDs must be lodged in the PCS website against the contract notice.

The ESPD (Scotland) will:

- Set out the selection criteria, including minimum standards and methods of shortlisting
- Choose relevant questions for the competition
- Assess contractors' suitability against a set of pre-determined criteria, or to ask suppliers one question – do they meet all the selection criteria.

- 4.8 A shortlist of suitable suppliers who meet the contract requirements will be invited to tender once all ESPD returns have been reviewed.

Tender Register

- 4.9 We will no longer maintain a Tender Register for contracts that are presented through the PCS portal.

We will, however, maintain a register to record minor works where 3 quotes are obtained before work and a contractor is selected. Details of each contractor invited to provide a quotation should be listed together with the price submitted, with a comment about the method used to select the contractor (*such as lowest price*).

Each entry recorded in the register should be endorsed by the Chief Executive.

Negotiated Procedure

The negotiated procedure allows the Association to negotiate the details and terms of providing services with an individual supplier, particularly where there are limited suppliers capable of providing the prescribed service or there is a specific business case for relating to the provision of the service.

The negotiated procedure may only be used where expressly permitted within the Procurement (Scotland) Regulations.

Staff proposing to use the negotiated procedure must obtain the prior written permission of the Chief Executive in order to use this procedure.

5.0 Tendering, Selection and Evaluation

- 5.1 The contract documents must clearly state:

- The criteria the tender submissions will be evaluated on
- The weighting given to price in comparison to quality of service

- 5.2 All Tender Documentation will be posted on the PCS Tender portal. PCS manage the tender process, including handling queries and tender submissions on behalf of the Association.
- 5.3 Tender submissions will only be made available for the Association to assess once the posted date and time for tender returns has expired.
- 5.4 Tender submissions must be evaluated strictly in accordance with the evaluation criteria set out in the contract documents.

Tender Selection Panels

- 5.5 The Lead Officer for each contract will head the Selection Panel in evaluating tenders.

The formation of Selection should as set out in the attached procedure: ***Appendix B: Formation of Tender Selection Panels.***

- 5.6 The selection panel will assess the quality aspect for each supplier at an interview and each member of the panel will score the responses from the contractors in a scoring grid designed to reflect the nature of the service to be provided.

A detailed analysis of the submitted tender prices for each contractor (presented anonymously to the panel) will be provided to the Selection Panel only after all suppliers have given their quality presentation and scoring grids for the quality assessment have been collated. The Selection Panel will consider the analysis of the tender prices and will agree the rating for the submitted tender price for each contractor to be added to the overall rating.

The total rating for each supplier will only be established when the assessment exercise for Quality and Price has been completed and the quality scoring and price rating are added together. The selection panel will conclude the process by recommending that the supplier with the highest overall rating is appointed.

- 5.7 Tenders will be approved with reference to Policy Ref: GOV 010 – Authorisation of Expenditure and Documents.
- 5.8 Details of approved tenders will be reported to the Board.

6. Partnering

- 6.1 Partnering is not a means of procuring contracts, it is a term used to describe a more collaborative way of parties (clients and suppliers) working as one team to achieve common goals. This approach is about developing methods to enable organisations to operate more effectively to provide greater efficiency and to overcome confrontational ways of managing contracts.

Partnering will be considered where added value can be clearly demonstrated with suppliers who have successfully demonstrated their ability to provide a specified service, or where there is a demonstrable advantage that will benefit the Association and its tenants.

For a contract or project to be considered for Partnering, Best Value criteria should be satisfied, namely:

- The project cost compares favourably with the original tender price
- Provides high quality workmanship or service
- Demonstrates high levels of customer satisfaction.
- Project completion in time and on budget.
- Speedy response to disputes/claims.
- Efficient & effective follow up procedures

6.2 Project Partnering Agreements will be considered on a project by project basis. Strategic Partnering Agreements for recurring types of works and services will be considered pending review of current best practice guidance relating to procurement.

6.3 Individual Partnering Agreements will need to be approved by the Board.

6.4 All Partnering Agreements will be continually monitored for quality and satisfaction. Should the contractor fail to deliver service against set targets, the agreement may be terminated with due notice. Any remaining work on the project will be subject to competitive tender.

6.5 Partnering Agreements will be reviewed on an annual basis. The Director of Property Services will report to the Board on each supplier's performance. The report will include details of costs, quality and satisfaction.

7 Framework Agreements

7.1 Framework agreements may be considered when the Association may want to work with a number of suppliers on various projects over a period of time rather than conducting individual tender exercises. An example would be a Framework for Development Contractors, where the extent and duration of the works are expected to exceed the capacity of a single supplier.

7.2 The Association will consider developing frameworks agreements in a consortium with Local Authorities and/or other Housing Providers, on joint projects where there is scope for working with a number of contractors to meet agreed business objectives.

- 7.3 A full tender process must take place to establish Framework agreements and the tender document should stipulate the minimum number of supplier to be included on the framework and there also needs to be an agreed, transparent process in place to allocate work within the framework (e.g. mini tenders, work by allocation/rotation).
- 7.4 Framework agreements are limited to 4 years.

8 Extensions to Contracts

- 8.1 The Board may agree to extend contracts by negotiation with suitable suppliers where it can be shown that this is likely to be to the Association's advantage in terms of cost and quality.
- 8.2 Any decision to extend a contract must be made in accordance with the terms of the Procurement (Scotland) Regulations. Any staff proposing to negotiate or extend a contract must obtain the prior written permission of the Chief Executive prior to extension of the contract in question.

9 Procurement Strategy

- 9.1 The Procurement Reform (Scotland) Act 2014 requires that any authority with regulated procurement greater than £5millions in any financial year should prepare a procurement strategy and prepare and publish an annual procurement report at the end of its financial year.
- 9.2 The Association's annual turnover and projected expenditure for contracts procured in a financial year do not suggest that the Association's procurement will exceed the published limit.
- 9.3 The Association will, however, prepare a Procurement Strategy that will be reviewed annually. This will ensure that we address Procurement (i.e. the acquisition of goods, services and works) and inform our approach to delivering Best Value by following established tender processes or other means for the supply of goods and services.

10 Anti Bribery and Corruption

- 10.1 Procurement of goods and services carries the risk of opportunities for bribery and corruption. Melville Housing Association is committed to the prevention, deterrence and detection of bribery and corruption and maintaining a culture in which it is never acceptable.

Any suspicion of inappropriate behaviour in the procurement process, whether by staff or contractors, will be investigated in line with the Association's Anti-Bribery and Corruption Policy Ref GOV 013.

11 Sustainable Procurement

11.1 Where possible and having regard to the terms of the Procurement (Scotland) Regulations, the Association shall seek to ensure that:

- it incorporates environmental and social considerations into its procurement processes
- it encourages suppliers and contractors to minimise negative environmental and social effects associated with the products and services they provide
- it does not discriminate against social enterprises and local small and medium sized enterprises (SMEs) in the procurement process and specifications
- it conducts its procurement exercises in a manner which helps to support and deliver community benefits (for example, recruitment of the long-term unemployed and local skills development).

12 Equality and Diversity

12.1 We are committed to Equality and Diversity and will not discriminate in the operation of this policy on the basis of age, gender, gender reassignment, race, colour, caste, ethnic or national origin, religion, trade union membership, marital status, family circumstances, political belief or affiliation, sexual orientation, pregnancy, maternity or disability. We aim to promote equal opportunities and comply with all current legal requirements relating to equal opportunities.

13 Review of Policy

13.1 The Property and Allocations Manager will ensure this policy is reviewed every three years or earlier if there are any changes to legislation. Senior Management Team has delegated authority to approve minor changes to the policy. Significant changes will be submitted to the Board for approval.

Melville Housing Association *Appendix A*
Procurement Policy
PRO 009
Financial Thresholds for Procurement

Procurement Reform (Scotland) Act 2014 Thresholds

- **£50,000** - for procurement of goods, supplies and servicing contracts
- **£2,000,000** - for procurement of works contracts
****Figures current from 1 January 2020 (exclusive of VAT).***

European Commission Thresholds

- **£106,047** - for procurement of goods, supplies and servicing contracts
- **£4,348,350** - for procurement of works contracts
****Figures current from 1 January 2020 (exclusive of VAT).***

Note: *Financial thresholds refer to the procurement of contracts with an estimated (Total) contract value (net of VAT) which is equal to or exceeds the relevant threshold set out in the Regulations*

**Melville Housing Association
Procedure for
Formation of Tender Selection Panels**

Purpose

To set out a procedure for the arrangements for forming selection panels to assess tender returns for contracts as set out in our Procurement Policy (PR007).

Background

We use the principles of Best Practice (Price and Quality) to determine the outcome of any tender exercise in respect of works and services presented by the Association.

The two key elements are assessed as follows:

Price

The price element is driven by the priced tender documents and once the returns have been suitably checked and analysed a summary of the costs will be presented to the panel for consideration and ranking. For assessment purposes the most advantageous priced bid will attract the maximum score available for the price element. Other prices will be marked pro-rata in broad percentage terms, measured against the best priced return.

Quality

Each member of the selection Panel will mark a score card marking each contractor's responses to a set of agreed headings and topics prepared to reflect the nature of the service that the contract is designed to deliver.

Composition of Selection Panels

Panels can comprise of: staff, Board members, tenants and where appropriate consultants or specialists

Every contract presented for tender will have a Lead officer. It is the Lead officer's responsibility to make arrangements for setting up the selection panel and making suitable plans to form the scrutiny panel, allowing sufficient notice of the proposed date for the assessment.

The composition of any selection panel will depend on the value and complexity of the contract.

Contract value to £75,000

For simple contracts up to this value the minimum number of members of a selection panel will be the Lead Officer plus **2** others

Contract value from £75,000 to £150,000

For contracts that are larger and more complex in nature, between the values detailed, the panel will be the Lead Officer plus **4** others

Contract value more than £150,000

For major high value contracts the minimum panel size will be the Lead Officer plus **6** others