



**Provanhall Housing Association Limited**

**PROCUREMENT OF SUPPLIERS POLICY**

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# **Procurement of Suppliers Policy**

## **1. Introduction**

Provanhall Housing Association (PHA) is a community-based not-for-profit organisation located in the Provanhall area of Easterhouse. The Association is run by an elected and voluntary the Board. Policies of the Association are agreed and approved by the Board with the implementation of these policies the responsibility of staff. The purpose of this policy and related procedures is to establish effective and efficient procurement procedure that achieves value for money.

This policy outlines the broad principles that will be used by Provanhall Housing Association in the procurement of works, services and supplies in line with best current practice, guidance and legislation.

## **2. Policy Objectives**

The purpose of this policy is to establish a process whereby any procurement exercise is based around best overall value for money. The policy aims to select and appoint interested suppliers in accordance with Procurement (Scotland) Regulations 2016 and other relevant guidance and legislation.

The aims of the policy will be achieved by:

- Ensuring that, where appropriate, the selection of suppliers is based on an objective assessment of the value that they can contribute towards the proposed works against their price proposal.
- Applying a method of selection, which is appropriate to the proposed works, including that which is based on value and quality, and that demonstrates accountability.
- Ensuring that the method of selection used is fully transparent.
- Ensuring that the Board / Operations Sub-committee formally approves the selection of suppliers.

The Policy is based on the following principles:

- The process to be applied will be clearly defined, including procedures, the selection criteria, price / quality ratio, the basis of scoring and the weightings.
- The process will be outlined with potential suppliers prior to the event.
- Judgments will not be made by an individual, but by a competent selection panel.
- A documentary record of all key points in the process will be retained, in particular key decisions, their basis, and who took them.
- Feedback will be made available on request to all unsuccessful tenderers.

### **3. Legislation and Best Practice**

The Association's Procurement of Suppliers Policy complies with all legislation; guidance and best practice encompassed in the current editions of:

- Procurement Reform (Scotland) Act
- Public Contracts (Scotland) Regulations
- Procurement (Scotland) Regulations
- Procurement & Commercial Improvement Programme (PCIP)
- Scottish Model of Procurement
- The Health & Safety at Work Act
- Construction, Design and Management (CDM) Regulations
- The Housing (Scotland) Act
- Deeds of Conditions and Occupancy Agreements
- Scottish Social Housing Charter
- Data Protection Act
- Human Rights Act
- Equalities Act

### **4. Equal Opportunities**

Provanhall Housing Association is an equal opportunities organisation. The Association's Equality and Diversity Policy seeks to ensure that all suppliers are treated equally. The Procurement Policy will not unfairly discriminate against any suppliers, individual, or group of persons dealt with under the Policy on the grounds of:

- Race, ethnicity, national or social origin
- Disability including physical, learning or mental health
- Gender or marital status
- Sexuality or sexual orientation
- Religion, religious beliefs or opinions such as political opinions
- Age, appearance or financial status

The association wishes to ensure there are no barriers to accessing its services. Relevant documents can be translated into a range of languages or formats on request. We will also make available translation services for those who want more detailed information and to assist those who wish to make personal enquiries. For anyone with visual or hearing problems, documents can also, on request, be made available in larger print, on tape, in Braille or on any other format required.

All suppliers will be required to accept the association's Equalities Policy or to have developed policies of their own which are acceptable to the Association.

Any complaints received in relation to breach of this policy will be addressed via the association's Complaints Policy.

## **5. Complaints**

The Association has a Complaints Policy and Procedure which explains how suppliers who are dissatisfied with the operation of any service the association provides may make a formal complaint to the Association. This policy also includes an appeals process.

Suppliers have the legal right to challenge the competency of the procurement decision and seek legal advice. Should a challenge be received the procurement process will be held until the challenge is resolved.

## **6. Key Performance Indicators (KPI's)**

The Association is aware of the importance of close monitoring of the cost, quality and performance of service provided. To this end, careful consideration will be given, in the preparation of each KPI, to the setting of targets and the method of monitoring performance in relation to the project requirements to demonstrate continual improvement throughout the project. Appropriate reports will be provided to the relevant Sub-committee during and on completion of works / contracts.

The contracts awarded will be measured on agreed KPI's. The Association will provide a breakdown of the expected performance of the supplier throughout the contract, and these will be measured as follows:

Predictability: Time

- Completion as per programme
- Adherence to associated contract conditions

Predictability: Cost

- Completion as per agreed contract sum
- Adherence to contract rates and prorate rates

Predictability: Quality

- Tenants Satisfaction: Service & Product
- Clients Satisfaction: Service & Product
- Project Management
- Contract Administration
- Minimise / zero defects
- Health & Safety
- Communication
- Sustainability & waste minimisation
- Community Benefits
- Living Wage Employer (desired)

## **7. Delegated Authority**

Delegated authority for monitoring and evaluating the performance of Contract Works procurement has been passed to the Operations Sub-Committee.

All other procurement contracts will be subject to approval from the Board.

## **8. Business Plan**

In keeping with the Associations Business Plan the approach to Procurement should reflect the Associations core values, in particular;

- Open and accessible
- Creative and innovative
- Accountable to the community
- Fair & trustworthy

The Procurement of Suppliers Policy endeavours to achieve this value by delivering best practice and value. This policy strives to achieve cost predictability and enhance viability over all areas of service procurement.

## **9. Risk Strategy**

All aspects of this policy will be undertaken using current legislation and good practice to ensure exposure to risk is kept to a minimum. In accordance with the Association's 30-year financial projections clear amounts of capital have been budgeted for to allow the repair, servicing and renewal of components within PHA properties. This is clearly recognised by the Association in the regular updating and development of the business plan to ensure long-term planning and viability is secured. All other costs for supplies must also be in line with these figures

As with all other aspects of business activity, the Association wants to ensure that the procurement of suppliers is carried out in a cost-effective manner. All parts of the procurement process must be undertaken in a way that the Association's exposure to risk is kept to a minimum. This can and is best achieved by ensuring that all aspects of procurement described within this document are undertaken against a backdrop of current legislation, guidance and good practice documentation as well as reflecting processes which are efficient and effective to implement.

## **10. EU Exit**

Section 3 of this Policy details the relevant legislative and best practice guidance that Provanhall Housing Association should follow as of January 2021.

Much of Scotland's public procurement legislation comes from European Directives and contain EU references and requirements. As the United Kingdom left the European Union on 31 December 2020 these references and requirements are not legally applicable in future procurement.

In December 2020 the Scottish Government published Scottish Procurement Policy Note (SPPN) 11/2020 which notes Procurement changes are largely technical in nature. They do

not impact on procurement procedures which will remain fundamentally unchanged with the basic requirements being;

- Advertise contracts
- Follow Technical specification rules
- Observe minimum timescales
- Declare and follow award criteria

The requirement to afford equal treatment to bidders from countries which are signatories to the World Trade Organizations' Government Procurement Agreement (GPA) also remains.

The Association should always refer to latest Government guidance and legislation when undertaking Procurement, but it is thought prudent to highlight three key immediate changes to Procurement methodology, these being;

### **Publishing notices**

The requirement to publish notices on Public Contracts Scotland (PCS), which comes from the Procurement Reform (Scotland) Act 2014, remains.

High value contracts are no longer to be published in the Official Journal of the European Union (OJEU) instead they should be published on a UK e-notification system called Find a Tender Service (FTS) Notices lodged on PCS from January 2021 onwards will automatically be forwarded for publication on FTS.

### **Threshold Values**

Threshold values for contracts subject to procurement legislation and for publishing notices, sometimes referred to as OJEU thresholds, remain unaltered as per SPPN 8/2019.

Scottish Ministers are responsible for reviewing and revaluing the financial thresholds every two years. Threshold values are aligned to those in the GPA and will remain consistent throughout the UK. 2020 / 2021 Threshold values are detailed within section 12 of this Policy.

### **ESPD / SPD**

In 2016 the European Single Procurement Document (ESPD) replaced the standard pre-qualification questionnaire. The ESPD was intended to remove barriers to public procurement & simplify the process through uniformity of standard terms and format. In January 2021 the ESPD (Scotland) will be changing to the Scottish Single Procurement Document (SPD)

There is little practical change, however, it should be noted the exclusion criterion concerning fraud relating to European Communities' funds is no longer valid grounds for excluding bidders. References to EU 'Member States' will be updated; the meaning of SPD questions has not changed.

Current Scottish Procurement guidance and best practice is available via Government supported website Procurement Journey <https://www.procurementjourney.scot>

## 11. Avoiding Conflict for Board, Staff and Suppliers

In order to avoid any conflict of interest or suggestion of financial impropriety for Board members or staff, Provanhall Housing Association will not approve the use of suppliers where any member of staff or the Board are proprietors or persons directly concerned in the management of the relevant business.

In the case of large businesses that operate nationally, such as banks, building societies and public utilities, this condition will only apply to parts of the business with which Provanhall Housing Association has a direct relationship.

Board members, who have close relatives that are principal proprietors or are directly concerned in the management of a business with which the Association has a commercial relationship:

- Will not be involved in any aspect of the contract procurement; and
- Will not be involved in the management of the contract, including any variations or extensions to the contract; and
- Will declare their interest and leave any meetings where dealings with the relevant business are discussed.

As a voluntary organisation in receipt of substantial income from tenants and public funding, the Association is determined to ensure that our procurement decisions reflect and preserve the integrity of the organisation and are transparent. The measures set out below are designed specifically with this in mind.

- i) The association requires that all staff immediately alert their senior managers, and Board Members immediately alert the Chief Executive to any attempt by any company to influence a procurement decision by way of inducement or otherwise. Canvassing of Staff or Board by any Supplier for any contract is expressly forbidden. Such actions are a serious breach of trust and as a result, following investigation, any supplier found to have behaved in such a manner will be removed from the association's approved list of suppliers and the Association will ensure that others seeking references concerning the supplier are made aware of such conduct.
- ii) Suppliers are similarly bound to alert the association's Chief Executive and/or Chairperson immediately should any inducement be sought by any member of the association's Staff or Board.

In both instances, the matter will be thoroughly investigated and where any such inappropriate behavior is found, including false allegations concerning another party, the measures open to the association will be pursued to the fullest degree.

These requirements will be made clear to all relevant staff and Board by obtaining confirmation that this policy has been received and understood. Similarly, for suppliers this section of the policy will be forwarded seeking written confirmation that it has been received and understood. For Suppliers the process of notification of the policy will be followed in conjunction with the annual insurance renewal.

## 12. Legislative Framework

The legislative frameworks in which the association must procure works, supplies and services are the Public Contracts (Scotland) Regulations and Procurement (Scotland) Regulations.

The value, risk and duration of the service being procured determines if it is Regulated or Unregulated procurement. The Association must appraise procurement activities in accordance with the following guidance;

### **Route 1 (Unregulated)**

Low value (a total estimated value of under £50,000 excluding VAT)

Low risk

Non-repetitive

### **Route 2**

Regulated procurements

Between £50k and Public Contracts (Scotland) Regulations threshold.

### **Route 3**

Regulated procurements

Public Contracts (Scotland) Regulations threshold and above

Route 1 procurement up to £50,000 (excluding VAT) require a degree of competition. Written or electronic quotations should be sought, ideally a minimum of 3 should the supplier pool be wide enough. The value should include any potential extensions to the contract.

Where possible the Quick Quote facility on Public Contracts Scotland should be utilised.

Procurement that falls within Route 2 and 3 is Regulated and the Association must comply with The Public Contracts (Scotland) Regulations 2015. Best practice principles should be followed:

- |                     |                        |                     |
|---------------------|------------------------|---------------------|
| 1. Develop strategy | 2. Develop documents   | 3. Issue documents. |
| 4. Evaluation       | 5. Clarification.      | 6. Contract award.  |
| 7. Implementation   | 8. Contract management | 9. Lessons learned  |

High level procurement thresholds are as follows:

### **Supplies and services (except subsidised services contracts)**

Schedule 1 bodies                      £122,976

Others                                        £189,330

### **Subsidised services contracts**

All bodies                                    £189,330

## **Works (including subsidised works contracts)**

All bodies £4,733,252

## **Small lots**

Supplies and services £70,778

Works £884,720

In line with current best practice, the association will adopt the following forms of procurement to meet compliance with the aforementioned legislation:

- a) Traditional Procurement (tendering)
- b) Balancing Quality and Price
- c) Framework Agreements
- d) Transparent negotiation (where applicable)

### **13. Forms of Procurement**

The various forms of procurement and the general circumstances under which they will be used are outlined below:

#### **a) Traditional Competitive Tender**

The Association will where appropriate, tender on a Traditional Competitive basis deemed. This involves all interested applicants, irrespective of numbers, competing for the works based on a price basis only. The lowest priced tender would be recommended to Board for acceptance. This method is most likely to be appropriate for Route 1 works / services / supplies.

#### **b) Negotiation of Contracts**

Where a contract is below the Public Contracts (Scotland) Regulations 2015 thresholds or where there is a large degree of repetition the association may seek to negotiate contracts. This is most likely to occur where robust evidence in the form of an audit trail to demonstrate value for money as well as evidence of measurable continuous improvement. These will be measured in terms of time, cost, quality, client satisfaction and tenant satisfaction in the form of actual performance against agreed Key Performance Indicator's.

Recommendations to negotiate a contract will be provided in a written report to the Operations Sub-Committee who will be asked for approval to negotiate further phases or contracts. Where there are time constraints to meeting Sub-Committee calendar dates recommendations will be reported to the Board for approval.

#### **c) Balancing Quality and Price**

The Association will utilise price / quality ratios for contracts where applicable. This is most likely to be appropriate for high or medium value contracts which are more complex and where the association wishes to have a high degree of quality of service. It is acknowledged that Balancing Quality & Price may result in entering into a contract where the price may not be the lowest, quality of service and value for money are deemed to be equally high priority.

The Board will be asked to approve the quality assessment questionnaire and weighting for relevant criteria for each contract, all as contained in a written report and recommendations to the Board.

**d) Joint Working / Joint Buying Arrangements**

Where the Associations agrees to enter into a joint working arrangement, the agreement should clearly state the nature of the arrangement, legal responsibilities and accountability. In particular, the arrangements for the induction of new members, an exit strategy and the responsibility for the auditing (both Internal & External) of the joint working arrangements should be established.

Where the Association agrees to enter into a joint buying arrangement, this agreement should clearly state the nature of the arrangement and the legal responsibilities of each party including any special terms, where one or more party ceases to be involved in the arrangement. The agreement should include details of the goods or services to be purchased, the time period covered, the extension process, the termination process, the quality and performance and payment arrangements. The agreement should also include details of all parties' involvement in any tendering requirement.

**e) Framework Agreements**

A framework is an agreement with suppliers to establish terms governing contracts that may be awarded during the life of the agreement. In other words, it is a general term for agreements that set out terms and conditions for making specific purchases (call-offs).

There may be times where a contract for the supply of goods or materials or the provision of services cannot be quantified, requires to be delivered or provided during a specified period, but is not for immediate delivery or provision. In such instances the requirement to tender will be carried out only once, prior to the commencement of such period and will include the option of alternative suppliers where appropriate.

The agreement itself should be subject to tender, depending on the value of the overall contract, and must specify the agreement period, which would not normally exceed 5 years, possibly though annual appraisal 1+1+1+1+1 or initial term contract with appraisal extensions 3+1+1.

Provanhall Housing Association is a member of the Scottish Procurement Alliance (SPA) and Procurement for Housing Scotland (PfH). These organisations provide access to a wide range of pre-procured frameworks and Dynamic Purchasing Systems (DPS), all established in accordance with the Public Contracts (Scotland) Regulations 2015. Suppliers on these frameworks have been pre-assessed for quality, technical capability, financial standing and pricing.

The Association may use SPA or PfH frameworks where:

- a) The requirement falls within the scope of an available framework or DPS
- b) The framework route offers demonstrable value for money, efficiency or reduced procurement risk

- c) The procurement is time-sensitive and a framework provides a compliant alternative to full tendering
- d) The contract value is within the thresholds permitted by the framework
- e) Transparency, fairness and equal treatment can be evidenced

**f) Specialist / Development Suppliers**

In certain circumstances, the Association may wish to work with a specific supplier as their expertise or materials are required in the design and development process. This may be for a new service where the market has not been developed, or where a building project requires new techniques to be applied, or where the Association wishes to procure the supply of materials separately from the installation, or some other exceptional or unusual requirements.

In such cases, the Association's procurement manual will be applied as appropriate with engagement and reporting to the Board / Operations Sub-Committee.

**g) Substantial third-party funding contributions**

In certain circumstances, the Association may encounter a project or service where a substantial amount of the contract value can be met through external third-party funding. The main focus for these types of projects has seen the delivery of energy efficiency improvement through the installation of insulation. Funding generally is delivered via a number of schemes e.g. Energy Company Obligation (ECO) and Scottish Governments Home Energy Efficiency Programme Scotland (HEEPS).

It is accepted that the nature of these projects means that some deviation from our standard procurement principals are required; subject to prior the Board / Operations Sub-Committee approval.

## **14. Advertising Value Thresholds**

PHA will ensure best practice by advertising and publication on the PHA website & / or recognised websites created for the purpose of publicising contract opportunities such as the Public Contracts Scotland website to satisfy the requirement for adequate publicity. The Association will advertise all works, services and supplies contracts as outlined below.

### **Works**

All works contracts above the value of £50,000 dependant on complexity and requirements.

*Note: Works advertising value has been set at £50,000 as it would be cost prohibitive, in terms of staff time, cost and resources to advertise and strategically procure works below £50,000 as long as cost value can be proven.*

### **Services**

All services contracts above the value of £5,000

### **Supplies**

All services contracts above the value of £5,000

*Note: Services & Supplies advertising value has been set at £ 5,000 as it would be cost prohibitive, in terms of staff time, cost and resources, and may impact other services provided by the Association, to advertise and strategically procure services & supplies below £ 5,000.*

## **15. Community Benefits**

The Association are committed to the use of Community Benefit Requirements as defined in the Procurement Reform (Scotland) Act 2014 when commissioning any procurement contracts.

The current legislative threshold for community benefits is £4million. However, by including community benefit matrix and clauses within tender documents Provanhall Housing Association will high-light our desire to incorporate community benefits in our procurement activities.

Community benefits shall be relative to the value and length of contact period and will be negotiated with successful suppliers.

## **16. Living Wage Employer**

The real Living Wage is an independently calculated rate based on the cost of living and is paid voluntarily by employers. The rate is calculated each year in November by The Resolution Foundation on an analysis of the wage that employees need to earn in order to afford the basket of goods required for a decent standard of living. This basket of goods includes housing, childcare, transport and heating costs.

As a living wage accredited organisation Provanhall Housing Association consider the use of a Living Wage assessment matrix as part of the quality assessment when undertaking Route 2 and 3 Procurement.

## **17. Strategic Procurement**

In line with current best practice, the association will take a strategic approach to procurement of suppliers and so our policy allows for the following types of procurement:

- Traditional Procurement (tendering)
- Balancing Quality and Price
- Framework Agreements
- Dynamic Purchasing System
- Transparent Negotiation (where applicable)

The Board / Operations Sub-Committee will approve the most appropriate method of procurement for works, services or supplies. Consideration will be given to what will be the most strategic and effective method of procurement from the viewpoint of what objectives the association is aiming to achieve from the contract e.g. cost certainty, high quality, balancing price & quality, high standards of tenant satisfaction or high specification service.

## **18. Letting of Contracts**

PHA will not instruct acceptance of the tender until:

- Board / Sub-Committee have approved the appointment of the supplier
- Contract cost has been agreed and confirmed
- Any statutory permissions have been received
- References received where appropriate

Where possible the Association should ensure that for each project there is a formal contract, service level agreement or clear / defined scope of works.

## **19. Learning & Development**

To ensure the effective implementation of this Policy, training will be provided to all relevant staff and Board Members.

## **20. Measuring Outcomes of the Policy**

Provanhall Housing Association will use the following measures to ensure as far as possible that the best value outcomes are achieved.

- Use information from the TSS
- Budget monitoring
- Programme and progress monitoring
- Evaluation of current contracts
- Inform and involve tenants on policy consultation and resultant reviews
- Publicise policy changes and information through newsletters and website

When the policy requires amendment the Board / Operations Sub-committee will receive a report assessing the outcomes of the policy and confirming the rationale for any proposed revisions.

## **21. Policy Review**

The Policy and related procedures will be reviewed 3 years from the date of approval, or earlier should the need arise to reflect changing circumstances or changes in legislation or good practice standards.