



## **PROCUREMENT POLICY**

ALL OF THE ASSOCIATION'S POLICIES AND PROCEDURES ARE AVAILABLE, LARGER PRINT, BRAILLE,  
AUDIO OR OTHER LANGUAGES -

PLEASE ASK A MEMBER OF STAFF IF YOU WOULD LIKE  
A VERSION IN A DIFFERENT FORMAT

**Date Approved: Nov 2018**

**Next Review Date: Nov 2021**

## Procurement Policy

### 1. Introduction

This Policy seeks to establish a set of procurement policies and procedures which set out the most cost effective and acceptable way of securing the quality of works, services and/or goods that we require from contractors, consultants and suppliers.

### 2. Definition

Procurement can be defined as ‘encompassing the whole process of acquisition of good, services and works from the initial assessment of a business case through to the end of the useful life of an asset or the end of a service contract’.

### 3. Objectives of this Procurement Policy

The objectives of this Policy are to:

- Ensure that the Association maximises value for money when procuring contracts;
- Ensure that the Association complies with all legal and regulatory requirements governing procurement and related best procurement practice when procuring contracts;
- Ensure that procurement accords with the requirements of the Association’s policy in respect of entitlements, payments and benefits
- Maximise opportunities to jointly procure services on a collaborative basis with colleagues in other local registered social landlords and related organisations;
- Ensure that expectations of our tenants, customers, staff, colleagues and other key stakeholders are met and continually improved

### 4. Legal Obligations

When procuring contracts for goods, services or works, the Association must comply with the Public Contracts (Scotland) Regulations 2015 (“**the Regulations**”) and the Procurement Reform (Scotland) Act 2014 (“**the Act**”).

The Association is subject to a two-tier procurement regime, in terms of which:

- The Regulations will apply to contracts with a value which meets or exceeds the relevant EU thresholds (currently £181,302 for supplies or services and £4,551,413 for works); and
- the Act will apply to contracts with a value below such EU thresholds but with a value which is equal to or greater than the thresholds set out in the Act (currently £50,000 for supplies or services and £2,000,000 for works)

The procedure for the award of any contract depends upon the estimated value of that contract – further details are set out in section 8 of this policy.

The Association’s approach to procurement aims to reflect a range of legislative, governance and operational matters as well as emerging Government policy. The influences on our

procurement policy including EU directives, Acts of the Scottish Parliament, Regulations, Scottish Government guidance and best practice.

## **5. Compliance with Corporate Policy and Strategy**

All procurement decisions taken will be taken in direct compliance with the Association's strategic and corporate documents, namely the Association's:

- *Business Plan; Financial Procedures and Financial Regulations; Standing Orders and*
- *Entitlement Payment and Benefits Policy*

## **6. Procurement Activity Principles**

At the outset of each project, an appropriate procurement strategy and procedure which is legally compliant, is based upon good practice and reflects all relevant guidance will be developed and presented to Committee for approval.

In selecting a preferred strategy for procurement, we will demonstrate a sound rationale for selecting the particular route, setting out the selection criteria to be applied to potential contractors, consultants and suppliers and the award criteria to be applied.

We will maintain and operate a clear framework for decision making and an appropriate system for the recording of audit trails.

## **7. Contractor/Consultant/Supplier Selection**

Depending on the procurement procedure to be adopted and the value of the contract, contractors, consultants and suppliers can be selected using a number of different methods, which include (but are not limited to):

- Making direct requests to contractors, consultants and suppliers, in circumstances where the Association is not under any legal obligation to publicly procure the relevant contract;
- "calling off" a contract in accordance with relevant framework arrangements, which may be either framework arrangements set up by the Association or framework arrangements set up by third parties but in terms of which the Association is entitled to call off works, supplies or services, in each case by direct award or following a mini-competition; or
- Through advertising, whether on Public Contracts Scotland Portal or otherwise, and undertaking an appropriate procurement process to select a supplier to provide relevant works, services or supplies.

## **8. Contract Values**

The procurement route chosen will be guided by the value of the contract, although there will be circumstances from time to time which the Association may decide to depart from the principles set out below

A tiered approach to procurement is in operation by the Association and is used to determine the procurement route to be taken – the applicable procurement route is determined by the value of contract to be procured.

The relevant threshold values and the associated procurement procedure that must be applied are detailed in the table below.

All values are exclusive of VAT and relate to the full life of the contract (including any potential extensions or renewals).

Contract Type	Contract Value (exclusive of VAT)	Procurement Procedure
Works	£4,551,413 and above	OJEU Procedure under the Regulations
Supplies/Services	£181,302 and above	OJEU Procedure under the Regulations
Works	£2,000,000 to £4,551,413	Regulated procurement under the Act
Supplies/Services	£50,000 to £181,302	Regulated procurement under the Act
Works/Supplies/Services	Less than £50,000 (Supplies/Services) or less than £2,000,000 (Works)	Unregulated procurement

The prescribed threshold values set out in the above table will be automatically revised in accordance with any subsequent amendment to the threshold values set by the EU Commission for supply, services or works contracts (the next amendment being due to take effect from 1 January 2020).

All other financial limits specified in this Policy shall be subject to review from time to time. Association employees will be notified promptly by the Depute Director of any change to the relevant values.

For unregulated procurements that have an estimated value which is below the prescribed statutory threshold referred to in the table above, the Association operates the following internal tiered guidelines.

Tier 1	Up to £1,500	Staff can procure via works order/purchase order within their delegated spend authority (refer to financial regulations). The Contractor may be directly engaged without any form of public procurement exercise.
Tier 2	£1,501 to £5,000	At least two competitive quotes should be obtained from suitably competent contractors. The award will be based on the lowest price received. No Committee approval required for award if overall spend remains within budgetary parameters.
Tier 3	£5,001 to £10,000	At least three competitive quotations should be obtained. No Committee approval required for

		award if overall spend remains within budgetary parameters. Approval required from the Director in line with Financial Regulations.
Tier 4	£10,001 to £49,999	At least three competitive quotations should be received. If suitable, can be advertised via Scottish Housing News or other suitable publication or portal including Public Contracts Scotland if deemed appropriate. Works can also be procured using Quick Quotes up to a value of £50,000.
Tier 5a	£50,000 to £181,302 for goods and services *	Advertisement via Public Contracts Scotland portal. The Procurement Reform (Scotland) Act 2014 applies. Competitive tendering process to be undertaken. Award to be based on capability and quality analysis, followed by balancing quality/price exercise. Committee approval required.
Tier 5b	£2 million to £4,551,413*	Advertisement via Public Contracts Scotland portal. The Procurement Reform (Scotland) Act 2014 applies. Competitive tendering process to be undertaken. Award to be based on capability and quality analysis, followed by balancing quality/price exercise. Committee approval required
Tier 6a	Services over £181,302*	Advertisement to Official Journal of the European Union (OJEU) using Public Contracts Scotland portal. Restricted method where suppliers firstly complete a European Single Procurement Document (ESPD). This will result in a limited number of suppliers being invited to participate in a competitive tendering process based on a second stage capability and quality analysis, followed by most economically advantageous tender. Committee approval required.
Tier 6b	Works over £4,551,413*	Advertisement to Official Journal of the European Union (OJEU) using Public Contracts Scotland portal. Restricted method where suppliers firstly complete a European Single Procurement Document (ESPD). This will result in a limited number of suppliers being invited to participate in a competitive tendering process based on a second stage capability and quality analysis, followed by most economically advantageous tender. Committee approval required.

\* In respect of supplies and services with a value of over £50,000 and in respect of works contracts with a value of £2m or more, the Association must have regard to its sustainable procurement duty. This means the Association must consider how the procurement can improve the social, economic and environmental wellbeing of its area; facilitate the

involvement of SMEs, third sector bodies and supported businesses in the process; and promote innovation. The Association must carry out its procurement with a view to securing those improvements.

A flow chart is attached at Appendix 1 to assist with the implementation of this tiered approach.

## **9. Choice of procurement procedure**

### **9.1 Procedures under the Regulations (Regulated Procurement)**

#### **9.1.1 Rules which apply to all procedures**

The section of the policy provides an overview of each of the most relevant procedures under the Public Contracts (Scotland) Regulations 2015. Each of these procedures is subject to certain minimum timescales.

In relation to all procedures under the Regulations:

- A specific tender notice must be placed in the supplement to the OJEU, via the Public Contracts Scotland website, and consideration given as to whether it would be appropriate to also advertise on the Association's website and/or in a suitable professional/trade journal or the press.
- Following the contract award decision, the Association must notify the successful and unsuccessful bidders of the contract award decision. Unsuccessful bidders must be given information on:
  - the scores they obtained;
  - the reasons why they obtained those scores;
  - the scores awarded to the successful bidder's tender submission; and
  - the "characteristics and relative advantages" of the successful bidder's tender submission compared to their own tender submission;
- A mandatory "standstill" period must be observed between the date of the notices informing tenderers of the outcome of the procedure and awarding the contract;
- If contract award notices are issued electronically, then the standstill period starts on the day after the date of issue of the contract award notice and ends at midnight on the tenth day from that day;
- If contract award notices are issued by post, then the standstill period starts on the day after the date of issue of the contract award notices and ends at midnight on the fifteenth day from that day;
- If the last day of the standstill period is not a working day, then the standstill period must be extended to include the next working day. For example, if the ten or fifteen day

standstill period ends on a Saturday, then the period must be extended until the next Monday;

- Once the applicable standstill period has expired, the Association may enter into a contract with the successful tenderer;
- Following completion of the tender procedure, the Association must publish a contract award notice in the OJEU, via the Public Contracts Scotland website; and
- Any complaint about, or challenge to, an Association contract award procedure or any situation which could be reasonably expected to lead to such a complaint or challenge must be notified to the Depute Director immediately on the relevant Association staff member becoming aware of it. If a challenge is raised within the standstill period relative to a particular contract, all correspondence in relation to the challenge must immediately to the Depute Director for review.

### **9.1.2 Rules which apply to Specific procedures**

#### **Open Procedure**

The open procedure is a single stage procedure in terms of which all interested parties may submit a tender in response to the contract advertisement.

There is no separate pre-qualification stage in the open procedure, although tenderers will be required to complete a document known as a European Single Procurement Document (ESPD) as part of their tender submission.

The most up to date version of the ESPD can be found here:

<https://www.procurementjourney.scot/route-2/route-2-develop-documents-european-single-procurement-document-esp-d-scotland>

and is also available via the Public Contracts Scotland portal.

#### **Use of the ESPD under the Open Procedure**

The ESPD is a standard-form document, which will include a range of mandatory and discretionary grounds for exclusion. Bidders will need to confirm in their completed ESPD that none of the mandatory and discretionary grounds for exclusion applies to them and/or their organisation.

The ESPD may also include a number of “pass/fail” questions or questions in relation to which a minimum score must be achieved and bidders will be required to achieve a “pass” or the minimum score in relation to these questions in order for their tender to be fully evaluated by the Association – for example, questions in relation to: the economic and financial standing of bidders; bidders’ previous relevant experience; and/or bidders technical and professional ability.

The ESPD has replaced the requirement for suppliers to provide up-front evidence or certificates by allowing them to self-declare that they meet certain selection and exclusion

criteria. Bidders will be asked to provide proof that they meet the mandatory minimum criteria at a later stage in the tender process.

By law, a winning bidder has to submit all of the required certificates and documentation, before they are awarded a contract. The Association can ask bidders to submit their evidence at any point in the procurement process, if this is necessary to ensure that the process is carried out properly.

In an open, or one-stage, procedure, the successful bidder will be asked to provide their supporting evidence at the point of contract award but before any contract is entered into.

If, following review of supporting evidence submitted by a successful bidder, a bidder is found to have misrepresented itself, the Association will need to consider the following:

- If the Association identifies that a bidder is actually in one of the situations which is a mandatory ground for exclusion, or if it does not meet one of the minimum selection criteria, then the Association must exclude that bidder from the competition. Depending on the nature and stage of the competition, that may mean either that it proceeds without that bidder, or that the competition should be re-evaluated without that bidder's tender;
- If the Association identifies that a bidder is in one of the situations which is discretionary ground for exclusion, then the Association will need to consider whether or not to exclude that bidder. The decision to exclude must be made in line with the general principles of transparency, proportionality, equality of treatment and non-discrimination; and
- If the issue is more administrative in nature (e.g. mistakes in providing documentation) then the Association will have the option of inviting the bidder to supplement or clarify the documentation provided.

#### Clarification of tenders under the Open Procedure

Under the open procedure, the Association can ask tenderers to clarify aspects of their tenders following submission. In the event that the Association identifies that a tender contains any clerical or genuine arithmetical errors, the Association may give the tenderer in question the chance to correct the error, but no other adjustment, revision or qualification is permitted in respect of such errors. Material changes to the terms of tenders are not permitted and the Association may not negotiate with tenderers after submission of tender responses.

#### When to use the Open Procedure

The Open Procedure will be most appropriate for straightforward procurement projects where, for example:

- the Association is aware that "off-the-shelf" solutions are available for a particular requirement;
- the Association is aware that there is a well-established supplier market that can meet the requirement;



- the Association anticipates that there is likely to be only a limited and manageable number of responses to the tender; and/or
  - the Association anticipates that tender responses will be simple to evaluate
- As all interested parties submit a tender, the open procedure is unlikely to be appropriate where there is any complexity in the evaluation process for practical reasons or where the Association anticipates a significant volume of responses and wishes to limit the number of tenderers invited to the tender stage of the process.

When considering whether or not the Open Procedure is appropriate for a particular procurement exercise, Association staff should consider the following specific points:

- It may not be possible to accurately predict how many submissions the Association is likely to receive in relation to a particular tender, so it is essential that staff understand the size and scale of the supply market before choosing the Open Procedure – if staff anticipate a significant volume of submissions then the Restricted Procedure should be used;
- When using the Open Procedure, it may be possible to minimise the chances of receiving an unmanageable number of responses to the tender and/or unsuitable responses by ensuring that the Association’s specification of requirements is accurately drafted and explains in detail exactly what it is that the Association requires from bidders;
- The Open Procedure is unlikely to be suitable for requirements where the Association needs to limit the suppliers bidding to those who have specific previous experience or expertise of particular types of works or services, or particular sectors, in order to meet the Association’s requirements; and
- The Open Procedure will not be suitable for requirements where the Association wishes to have the ability to negotiate or engage in dialogue with bidders.

### **Restricted Procedure**

The restricted procedure is a two stage procedure in terms of which all interested parties may submit an expression of interest in response to the contract advertisement.

The Association then issues an ESPD to interested parties and follows a pre-qualification stage – only those candidates which meet the Association’s selection criteria (as set out in the ESPD) will be eligible to be short-listed and invited to the tender stage of the process.

A minimum of five suppliers must be invited to tender (unless fewer suitable candidates have met the selection criteria and these are sufficient to ensure genuine competition). Subject to this minimum requirement, the Association may choose to limit the number of candidates who are short-listed and invited to the tender stage of the process.

### **Use of the ESPD under the Restricted Procedure**

The ESPD is a standard-form document, which will include a range of mandatory and discretionary grounds for exclusion. Bidders will need to confirm in their completed ESPD

that none of the mandatory and discretionary grounds for exclusion applies to them and/or their organisation.

The most up to date version of the ESPD can be found here:

<https://www.procurementjourney.scot/route-2/route-2-develop-documents-european-single-procurement-document-esp-d-scotland>

and is also available via the Public Contracts Scotland portal.

The ESPD may also include a number of “pass/fail” questions or questions in relation to which a minimum score must be achieved and bidders will be required to achieve a “pass” or the minimum score in relation to these questions in order for their tender to be fully evaluated by the Association.

The ESPD has replaced the requirement for suppliers to provide up-front evidence or certificates by allowing them to self-declare that they meet certain selection and exclusion criteria. Bidders will be asked to provide proof that they meet the mandatory minimum criteria at a later stage in the tender process.

By law, a winning bidder has to submit all of the required certificates and documentation, before they are awarded a contract. The Association can ask bidders to submit their evidence at any point in the procurement process, if this is necessary to ensure that the process is carried out properly.

In a restricted, or two-stage, procedure, the successful bidder will be asked to provide their supporting evidence at the point of short-listing.

If, following review of supporting evidence submitted by a successful bidder, a bidder is found to have misrepresented itself, the Association will need to consider the following:

- If the Association identifies that a bidder is actually in one of the situations which is a mandatory ground for exclusion, or if it does not meet one of the minimum selection criteria, then the Association must exclude that bidder from the competition. Depending on the nature and stage of the competition, that may mean either that it proceeds without that bidder, or that the competition should be re-evaluated without that bidder's tender;
- If the Association identifies that a bidder is in one of the situations which is discretionary ground for exclusion, then the Association will need to consider whether or not to exclude that bidder. The decision to exclude must be made in line with the general principles of transparency, proportionality, equality of treatment and non-discrimination; and
- If the issue is more administrative in nature (e.g. mistakes in providing documentation) then the Association will have the option of inviting the bidder to supplement or clarify the documentation provided.

*Clarification of tenders under the Restricted Procedure*

Under the restricted procedure, the Association can ask tenderers to clarify aspects of their tenders following submission. In the event that the Association identifies that a tender contains any clerical or genuine arithmetical errors, the Association may give the tenderer in question the chance to correct the error, but no other adjustment, revision or qualification is permitted in respect of such errors. Material changes to the terms of tenders are not permitted and the Association may not negotiate with tenderers after submission of tender responses.

#### When to use the Restricted Procedure

As there is a short-listing phase, the restricted procedure is likely to be more appropriate than the open procedure for procurements where there is likely to be significant supplier interest and a large volume of expressions of interest or where the Association needs to limit the short-list of tenderers to those with specific expertise and experience in a particular area or sector.

As contracting authorities are unable to negotiate with tenderers, the restricted procedure should only be used where the Association is able to adequately specify its needs.

The Restricted Procedure will be most appropriate for procurement projects where, for example:

- the Association is aware that there is a large market for the particular market and, therefore, there are likely to be a large number of interested parties;
- the Association considers that there is a genuine need to pre-qualify tenders in order to ensure that only suppliers with the necessary financial standing, previous experience and/or technical ability are invited to tender
- the Association anticipates that there is likely to be a large and unmanageable number of responses to the tender; and/or
- the Association anticipates that tender responses will be complex to evaluate.

For more complex procurements – for example, ones where the Association may not be able to specify its requirements without some level of market negotiation/dialogue or ones where an innovative solution is required – the Association should either; consider using one of the more complex procurement procedures described in the Regulations – the competitive procedure with negotiation or the competitive dialogue procedure; or undertake a suitable pre-tender market testing exercise to identify what solutions may be appropriate, prior to issuing a contract notice.

## **9.2 Procedures under the Act**

There are no specific prescribed procurement procedures or timescales under the Act but the Association may, if appropriate, use any one of the procurement procedures under the Regulations described in section 9.1.2 of this Policy for procuring contracts which are subject to the terms of the Act.

In relation to advertising of contract opportunities which are subject to the terms of the Act, the contract notice, tender documentation and contract documentation must be published on the Public Contracts Scotland website.

Tenderers should be advised to submit any clarification requests in relation to tender documentation and/or contract documentation through the Public Contracts Scotland website or directly to the Association by another means (for example, by email to a specific Association email address or in hard copy to the Association at its registered office)

Following completion of the procurement procedure, a contract award notice must be published on the Public Contracts Scotland website.

If a supplier excluded from participating in a procurement under the Act or an unsuccessful bidder in relation to a procurement under the Act requests further information from the Association in relation to the tender exercise, the Association must, within 30 days of receiving the request (which must be made to the Association in writing), provide the unsuccessful bidder with the following information:

- in the case of a supplier excluded from participating in a procurement under the Act, The Association must provide a summary of the reasons why the supplier was excluded; and
- in the case of an unsuccessful bidder in relation to a procurement under the Act, a summary of the reasons why the bidder was unsuccessful and details of the “characteristics and relative advantages” of the successful bidder.

If a successful bidder in relation to a procurement under the Act requests further information from the Association in relation to the tender exercise, the Association must, within 30 days of receiving the request (which must be made to the Association in writing), provide the successful bidder with a description of any improvements the Association considers the successful bidder could have made to its tender.

## **10. Evaluating and scoring of tender submissions**

Contracts which are procured under the Regulations and the Act must be awarded on the basis of “most economically advantageous tender”.

The “most economically advantageous tender” means the tender offer that is most economically advantageous from the Association’s point of view having regard of both quality and price factors – i.e. a “price-quality” mix.

Contracts which are subject to the Regulations and the Act cannot be awarded on the basis of lowest price only and must be awarded on a mix of price and quality. The quality factors which the association will use to evaluate tenders will depend on the subject matter of the contract and may include matters such as:

- Technical competence or merit;
- Quality systems and accreditation;
- Compatibility with the Association’s values and standards
- Conformance with the Association’s policies;
- Aesthetic, functional and/or environmental characteristics
- Running costs;

- Cost effectiveness
- After-sales service
- Technical assistance
- Capacity to deliver in specified timescales
- Deliver date; and
- Delivery period or period of completion

(all may be considered appropriate in relation to any particular contract)

Unregulated contracts – i.e. contracts which do not need to be procured in terms of either the Regulations or the Act may be awarded on the basis of either “price-quality” or “lowest price”.

#### **11. Policy Implementation**

The Depute Director will be responsible for ensuring this Policy is implemented for all contracts and that reports are submitted to the Management Committee to allow effective monitoring of this Policy.

The Depute Director will also be responsible for updating this Policy as appropriate.

Any queries about this Policy should be directed to the Depute Director.

#### **12. Public Accountability**

This policy is available from our office at any time and can also be downloaded from our website at [www.spireview.org.uk](http://www.spireview.org.uk).

#### **13. Review**

This Policy will be approved by the Management Committee of the Association and will be reviewed every three years, unless amendment is prompted by change in legislation, operational requirements, customer feedback or as dictated by the Association’s overall approach to risk management.

#### **14. Risk Management**

The choice of procurement route represents potential risk to the Association in that:

- Failure to comply with relevant legislation leaves the Association open to challenge;
- Failure to introduce a tiered approach does not provide the Association with an appropriate starting point on which to base our procurement decisions;
- Failure to comply with Regulatory Guidance may result in action by the Scottish Housing Regulator; and/or
- Procurement not properly and appropriately conducted may have implications for the budget and the Association’s financial and business plans.

Given the importance of these risks the effective management of this policy is vital. By having a written policy, the Association is able to ensure that a consistent, uniform and professional approach is adopted and the service delivered is compliant with legislation and best practice.

## **15. Contracts Register**

The Association must keep and maintain a contracts register which must include details of all contracts entered into by the Association following a regulated procurement under the Act. The Depute Director shall be responsible for the maintenance of the contracts register.

In relation to the contract, the contracts register must contain the following information:

- The date of award;
- The name of the contractor;
- The subject matter of the contract;
- The estimated value of the contract;
- The start date of the contract
- The end date provided for in the contract (disregarding any option to extend the contract) or, where there is no date specified, a description of the circumstances in which the contract will end;
- The duration of any period for which the contract can be extended

The template for Contracts Register is attached at Appendix 2.

The Association may delete an entry in its contracts register only after the contract to which it relates has expired or has been terminated.

The Association must make the information contained in its contracts register publicly available on the internet and by such other means as it considers appropriate.

The Association may withhold entry or part of an entry in the contracts register if it considers that making it publicly available would:

- Impede law enforcement or otherwise be contrary to the public interest;
- Prejudice the commercial interests of any person; or
- Prejudice fair competition between economic operators

## **16. Procurement Strategy and Annual Procurement Report**

### **16.1 Procurement Strategy**

The Act requires the Association to prepare and publish an annual procurement strategy for any financial year in which we estimate that we will have an annual spend of £5million or more (excluding VAT) on “regulated contracts” – i.e. contracts which need to be procured in terms of the Act.

This requirement will also apply if we did not initially anticipate that our annual spend on regulated contracts in the financial year would be £5million or more (excluding VAT) but we become aware of having this level of spend during the financial year.

The Procurement Strategy should set out how we intend to carry out our regulated procurements – i.e. procurements with an estimated value equal to or greater than £50,000 (excluding VAT) for goods and services and £2million (excluding VAT) for a public works contract.

Each Procurement Strategy must contain the following information:

- How the Association intends to ensure that its regulated procurements will contribute to the carrying out of its functions and achievements of its purposes
- How the Association intends to ensure that its regulated procurements will deliver value for money;
- How the Association intends to ensure that its regulated procurements will be carried out in compliance with its duty to treat relevant economic operators equally without discrimination
- How the Association intends to ensure that its regulated procurements will be carried out in compliance with its duty to act in a transparent and proportion manner;
- How the Association intends to ensure that its regulated procurements will be carried out in compliance with its sustainable procurement duty – i.e. its duty to consider how a procurement can improve the social, economic and environmental wellbeing of its area; facilitate the involvement of SMEs, third sector bodies and supported businesses in the process; and promote innovation
- A statement on the Association’s general policy on the use of community benefit requirements;
- A statement on the Association’s general policy on consulting and engaging with those affected by its procurements;
- A statement on the Association’s general policy on the payment of a living wage to contractors;
- A statement on the Association’s general policy on promoting compliance by contractors and sub-contractors with the Health & Safety at Work etc. Ac 1974;
- A statement on the Association’s general policy on the procurement of fairly and ethically traded goods and services; and
- A statement on how the Association intends to ensure that, so far as reasonably practicable, payments by the Association to its contractors and payments by the Association’s contractors to its sub-contractors are made no later than 30 days after invoice (or similar claim) relating to the payment is presented.

## **16.2 Annual Procurement Report**

In terms of the Act, the Association is required to prepare and publish an annual procurement report as soon as is reasonably practicable after the end of each financial year.

The annual procurement report must include the following information:

- A summary of the regulated procurements that have been completed during the year covered by the report;
- A review of whether those procurements complied with the Association's procurement strategy;
- To the extent that any regulated procurements did not comply with the Association's procurement strategy, a statement of how the Association intends to ensure that future regulated procurements do comply;
- A summary of any community benefit requirements imposed as part of a regulated procurement that were fulfilled during the financial year covered by the report;
- A summary of any steps taken to facilitate the involvement of supported businesses in regulated procurements during the year covered by the report; and
- A summary of the regulated procurements the Association expects to commence in the next two financial years – this summary should include the subject matter, whether it is a new or re-let procurement, the expected contract notice date, expected award date and expected start date.

The annual procurement report will be prepared by the Depute Director and presented to the Management Committee and will then be published on the Association's website.

#### **17. Procurement Strategy and Annual Procurement Report**

Contracts entered into by the Association for the acquisition or rental of land or existing buildings are not subject to the terms of the Regulations or the Act and do not need to be publicly procured.

Accordingly, if the Association is purchasing:

- Land – for example, a development site from a landowner; or
- Completed buildings – for example, completed housing units on a "turnkey" basis

then these arrangements will not need to be publicly procured and the Association can negotiate and contract directly with the relevant landowner or developer for the purchase of the land or buildings.

However, there are certain situations in which contracts for the acquisition of land or buildings may fall within the scope of the Regulations and/or the Act and may, therefore, need to be publicly procured.

For example, if the Association's main purpose in acquiring a piece of land is to develop housing on that land and, as part of the commercial deal for the acquisition of the land, the Association awards a building contract to the seller of the land to build houses for the Association, then that arrangement may need to be publically procured in terms of the Regulations or the Act.



Before agreeing to enter into a contract for the acquisition of the land or buildings which include or involve the award of a building contract to the seller of the land or buildings, Association staff must carefully consider whether the award of the building contract may need to be publicly procured in terms of the Regulations or the Act.

Depending on the facts and circumstances of each particular proposed acquisition, it may be possible to argue that the award of a building contract to a seller of land does not need to be publicly procured, because:

- The value of the building contract is under the applicable threshold value
- An exemption under the procurement rules applies; or
- The building contract can be drafted in a way which means it will not be subject to the terms of the Regulations or the Act

As with any development proposals, the consideration of the acquisition of a piece of land must be the subject of a written report to the Management Committee for approval.

#### **18. Review Period**

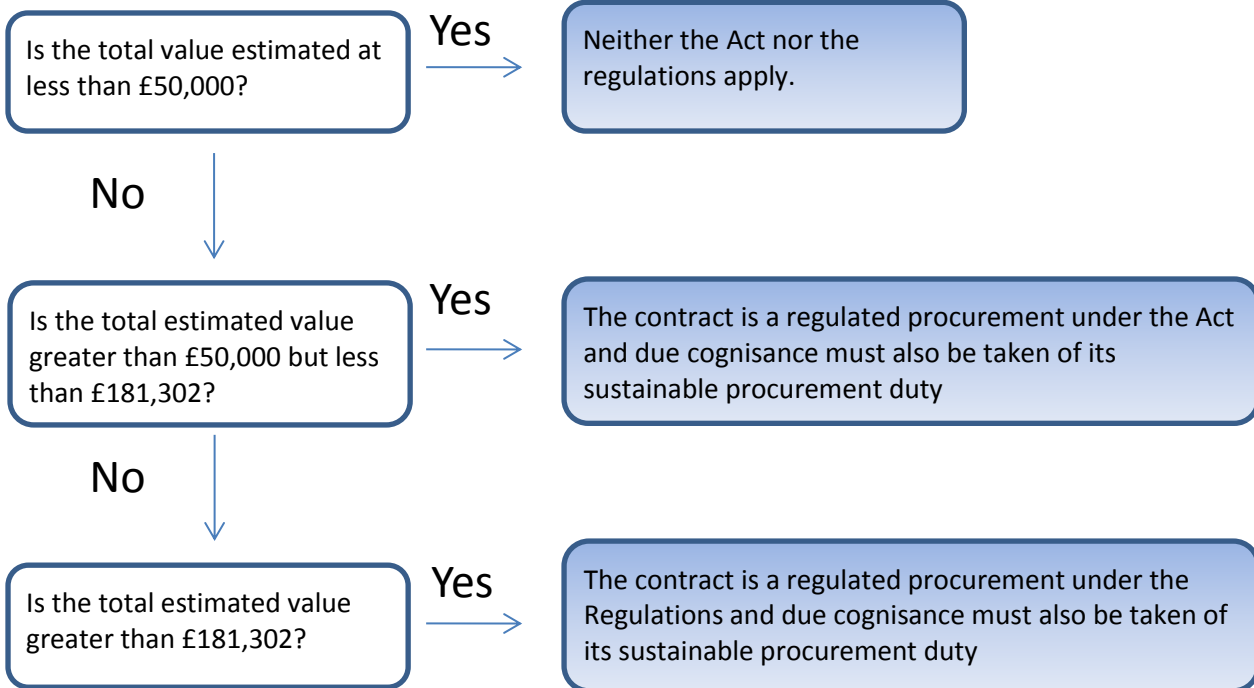
This policy will be reviewed every 3 years or sooner if required to ensure that the Association complies with up-to-date legislation and guidance.

#### **19. Equality & Diversity**

This policy has been developed in recognition that we have a pro-active role to play in valuing and promoting diversity, fairness, social justice and equality of opportunity by adopting and promoting fair policies and procedures.

Appendix 1 – Procurement Flowchart

**Procedure to follow for Goods and Services**



**Procedure to follow for Works**

