

**POLICY FOR THE PROCUREMENT OF GOODS, SERVICES AND WORKS**

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| Date of Policy | April 2020 |
| Date approved by Management Committee |  |
| Date of Review |  |

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| 1. **INTRODUCTION**    1. This Procurement Policy sets out the procedures which Ruchazie Housing Association Limited (referred to in this Policy as “RHA” or the “Association”) will follow when procuring contracts for the supply of services, the supply of goods and material and / or the execution of works.   This Policy must be interpreted in accordance with fundamental the principles of the Treaty of Rome. The foundation Principles of Procurement - Equal Treatment, Transparency, Non- Discrimination, Mutual Recognition, and Proportionality.    This Policy is subject to the over-riding provisions of European Union, United Kingdom and / or Scottish legislation. It is also subject to any EU Commission, UK Government or Scottish Government guidance on public procurement that may be issued from time to time.  All RHA employees shall comply with the terms of this Policy. Failure by any employee to comply with the terms of this Policy may result in disciplinary action.    This Policy may be suspended either in whole or in part by a decision of the governing body in respect of the proposed award of any contract upon the joint recommendation of the Director or other members of staff (provided they have delegated responsibility for the policy) and the chairperson, provided that the governing body is satisfied that the circumstances justify the suspension.  Any query regarding the application or interpretation of this Policy should be made in the first instance to the Director   * 1. This policy outlines the principles which will be used by the Association in the procurement of Works, Goods and Services. As a body governed by public law, the Association must comply with the Public Contracts (Scotland) Regulations 2015, which enshrine into Scots law the provisions of the [EU Procurement Directive 2014/24/EC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0024) and the [Procurement Reform (Scotland) Act 201](http://www.legislation.gov.uk/asp/2014/12/contents)4 (hereinafter referred to as the “Procurement Rules”).  1. **POLICY OBJECTIVES**    1. This document seeks to ensure that procurement planning reflects the Association’s aims and objectives and provide an opportunity to co-ordinate current procurement processes for all goods, works and services bought in by the Association, not just Asset Management activities as is required under Procurement Regulations    2. The document seeks to ensure that best value is being obtained consistently when goods, services and works are purchased, taking account of wider considerations than lowest cost (as required by the 2015 Regulations). Where required to do so, the document will show how the Association can comply fully with obligations laid down by EU Procurement Regulations and subordinate legislation and regulation, in particular the Procurement Reform (Scotland) Act 2014, in carrying out its procurement activities and contributing to the achievement of the National Outcomes set out by the Scottish Government. 2. **EQUALitY & diversitY STATEMENT**    1. The Association is intent on ensuring people or communities do not face discrimination or social exclusion due to any of the following protected characteristics:  age; disability; sex; marriage & civil partnership; race; religion or belief; sexual orientation; gender reassignment; pregnancy & maternity.    2. This policy complies with the Association’s Equality & Diversity policy.    3. The Association will regularly review this policy for equal opportunities implications and take the necessary action to address any inequalities that result from the implementation of the policy. 3. **LEGISLATIVE & REGULATORY CONTEXT**    1. As a public body for the purposes of the Procurement Rules,in implementing this Policy the Association will seek compliance with the legal framework which governs public procurement, and in particular the following measures:  * EU Treaty of Rome obligations * EU Procurement Directives, specifically [EU Directive 2014/24/EC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0024) * European Court of Justice and National Case Law * [The Procurement Reform (Scotland) Act 2014](http://www.legislation.gov.uk/asp/2014/12/contents) * Public Contracts (Scotland) Regulations 2015 * Procurement (Scotland) Regulations 2016 * Statutory Guidance under the Procurement Reform (Scotland) Act 2014  1. **LINK TO OTHER POLICIES & SCOTTISH SOCIAL HOUSING CHARTER**    1. This policy seeks to comply with the following policies and strategy documents:  * Business Plan * Risk Management Strategy: policy complements the strategy by addressing and minimising risks arising from fraud, dishonest or bribery involving competitor organisations or contractors/consultants performance or charges, also contributes to protecting the Group’s good reputation. * Entitlements, Payments & Benefits Policy * Financial Regulations * Fraud, Bribery and Money Laundering Policy * Whistleblowing Policy      * 1. This policy statement supports the Association in achieving the following relevant Charter Outcomes and Standards:   *Indicator 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.*  *This standard covers the efficient and effective management of services. It includes minimising the time houses are empty; managing arrears and all resources effectively; controlling costs; getting value out of contracts; and giving better value for money by increasing the quality of services with minimum extra cost to tenants, owners and other customers*   1. **MANAGEMENT RESPONSIBILITIES**    1. It is the overall responsibility of the Director and the Management Committee to ensure that the Association complies with all statutory duties placed on it by Procurement Legislation and includes:  * Implementation and the continuing review of this policy; * Ensuring that all staff who have a responsibility in implementing this policy are kept fully informed of developments in legislation and good practices relating to the management of procurement; * Ensuring competent staff is employed in delivering the policy in compliance with legislation, regulation and best practice; & * Ensuring stakeholder engagement in procurement processes, as appropriate.  1. **APPLICATION OF POLICY**     1. The relevant aspects of the EU Procurement Directive 2014 for RSLs were transposed into Scots law by the Public Contracts (S) Regulations 2015 which apply to works, supplies and services contracts over set values (contained in Appendix 1);    2. Subsequently the Procurement Reform (Scotland) Act 2014 (the Act) was enacted into law and governs supplies and services contracts with lower values (see Appendix 1) meaning that more contracts are subject to the requirement to advertise.    3. The following additional regulations and guidance were implemented by the Scottish Government under the 2014 Act:  * Procurement (Scotland) Regulations 2016 * Statutory Guidance under the Procurement Reform (Scotland) Act 2014   1. The 2015 Regulations and the 2014 Act enshrine in Scots Law the following key principles: * To treat contractors equally and without discrimination; * To act in a transparent and proportionate manner; and * To comply with the Sustainable Procurement Duty.   1. The Act includes a provision for the Scottish Ministers to amend the thresholds by order. The thresholds in the 2015 Regulations are reviewed every 2 years. . Statutory Guidance under the Act published in March 2016 places duties on Association to ensure it is in compliance with the following: * Procurement Strategy; * Annual Procurement Reports; * Sustainable Procurement Duty; * Community Benefit Requirements in Major Contracts; & * Publication of Contract Notices and Award Notices on Public Contracts Scotland (PCS) website.   + 1. **Procurement Strategy**     2. The requirement to produce Procurement Strategies applies only to bodies whose value of contracts covered under the Act is expected to be £5 million (excl. VAT) or more, the Association will from time to time reach this amount. Scottish Government in guidance states that public bodies will be *“encouraged”* to produce a Procurement Strategy even if projected expenditure is below the £5 million threshold.      * + 1. The Management Committee will review its anticipated spend and when required will produce a Procurement Strategy which will demonstrate that any contracts will deliver value for money and will narrate how it took account of the following items: * Community Benefits * Engagement with Stakeholders; * Minimum and/or Living Wage; * Health & Safety; * Fairly/ethically traded goods; * Improving the health and well-being of the community; & * Ensuring that suppliers are paid within 30 days.   **7.3.4 Annual Procurement Reports**  Public bodies who produce Procurement Strategies are required to produce Annual Procurement Reports at the end of the financial year, the first being due at the end of 2020 – 2021. The Report will cover the following:   * A summary of the last year’s contracts awarded; * A review of how the Association has complied with its Procurement Strategy and how it will ensure future compliance; * A summary of the Community Benefit requirements (see section 7.6) it included in its contracts and any steps taken to support “supported businesses”; * Potential contracts in the next two years.   **7.3.5 Sustainable Procurement Duty**  The Sustainable Procurement Duty requires the Association to consider the social, environmental and economic well-being of the area in which it operates when carrying out procurement exercises, with a particular focus on reducing inequality.  It also requires the Association to consider how it can involve Small and Medium-Sized Enterprises (SMEs – businesses with less than 250 employees), third sector bodies (which includes community groups, voluntary organisations, charities, social enterprises, co-operatives and individual volunteers that exist wholly or mainly to provide benefits for society or the environment) and supported businesses in the process and how it can promote innovation. In addition, there is a duty to adopt a sustainable approach to waste-handling and recycling.   * The Association will utilise all available processes/resources to explorea positive approach to delivering community benefits.   **7.3.6 Community Benefit Requirements in Major Contracts**  All public sector contracting authorities are required to consider including community benefit requirements for all regulated procurements where the estimated value of the contract is equal to or greater than £4 million. RHA is committed to improving equalities and the economic prosperity of our community and will use reasonable endeavours to procure that Community benefits are built into all contract requirements wherever appropriate.     * + 1. **Publication of Contract Notices and Award Notices on Public Contracts Scotland Website**   The Association will advertise and award all tenders for contracts covered by the Act on the Public Contracts Scotland (PCS) website. In selecting contractors at the pre-qualification stage for procurement exercises, the Association will be required to use the [European Single Procurement Document](http://www.gov.scot/Topics/Government/Procurement/Selling/ESPDSuppliersinfo) (ESPD) for all two-stage procurement exercises above the EU threshold levels.  All contracts covered by the Act will have to be awarded on the basis of the most economically advantageous tender (MEAT), which as is already common practice within the Association is the award of contracts on a Quality:Price basis, generally at a ratio of 60:40 but can be reviewed as the each procurement dictates.   * + 1. For minor works, if the contract sum is likely to be below £50,000, invite a minimum of 3 and maximum of 6 contractors to tender for a contract on a price only basis. In general, dependent on value the Association adopt the following procurement routes as appropriate:  |  |  | | --- | --- | | **Estimated value of contract** | **Procedure to be followed** | | Below £1,500 works and services / supplies\* | Work may be authorised within individual officer limits and contractor/supplier may be directly engaged without any form of public procurement exercise. | | Between £1,500 and £5,000 works and services / supplies\* | Minimum of three competitive quotations to be invited via Quick Quote (QQ) Lowest priced contractor/supplier to be appointed. | | Between £5,000 and £50,000  services / supplies / works \* | Minimum of three competitive quotations to be invited via Quick Quote (QQ) using standardised documentation and processes (for example, a specification, QQ ESPD, Quality document, Conflict of Interest Statement (if appropriate) and a PCS Postbox return date for all contractor/supplier being asked to provide costs). Lowest priced contractor or Most Economically Advantageous Tender (MEAT) can be used to appoint. | | Between £50,000 and £2m works\* | Best Practice tender process to be followed with at least three competitive tenders submitted via Scottish Contract Notice via PCS tendering procedure. Contractor evaluated as being the Most Economically Advantageous Tender (MEAT) to be appointed. | | Between £2m and £4,551,413 works and  Between £50,000 and £181,302 services / supplies\* | Formal Scottish tender process to be followed in compliance with the requirement to advertise in the Act with at least three/five competitive tenders invited via Scottish Regulated Contract Notice via PCS full tendering procedure. Contractor/supplier evaluated as being the Most Economically Advantageous Tender (MEAT) to be appointed. | | Over £4,551,413 works  and  Over £181,302 services / supplies\* | Formal OJEU tender process to be followed with at least three/five competitive tenders invited via EU Regulated Contract Notice via PCS full tendering procedure. Contractor/supplier evaluated as being the Most Economically Advantageous Tender (MEAT) to be appointed. |   **\* out with any existing Measured Term Contracts (MTC) values that are embedded within a contract**   * + 1. In terms of cost analysis, the Association will for EU regulated procurement exercises require to take account of whole life costing of goods, services and works and not just the initial purchase price. The Association will also ensure sustainable pricing in contract tenders and will be able to include clauses in tenders which disqualify tender prices thought to be unsustainably or abnormally low (see [Construction Procurement Handbook](https://www.gov.scot/publications/construction-handbook---cpn-6-2019/)  – Chapter 8)     2. All tender communication will be handled electronically.  1. **EXCLUSIONS**    1. It should be noted that the procurement by acquisition or rental of land, existing buildings or other immovable property or of any estate, right, servitude or other interest in or over such land, buildings or property is not covered by the Procurement Rules, as per 11 (1) of the Public Contracts (Scotland) Regulations 2015. In these circumstances it may be appropriate to issue a Voluntary Ex Ante Transparency (VEAT) Notice via Public Contracts Scotland prior to the conclusion of the acquisition in order to minimise the risk of a later procurement challenge from a third party.    2. In circumstances where works have already been procured through an open and transparent exercise and the scope of the contract works has been increased it is appropriate to issue a Modification Notice under Regulation 72 of the Public Contracts (Scotland) Regulations 2015 if the following conditions are met: 2. *the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;* 3. *the modification does not alter the overall nature of the contract or framework;* 4. *any increase in price does not exceed 50 % of the initial contract value or framework agreement* 5. **PROCUREMENT ROUTES & FRAMEWORK AGREEMENTS**    1. In assessing the most appropriate procurement route, the Association will utilise the [Scottish Procurement Journey](https://www.procurementjourney.scot/) provided by the Scottish Government. This provides guidance on procurement exercises and incorporates template documents to assist buyers such as the Association.    2. The Association will also consider using existing Framework Agreements where appropriate, whether national like the Scottish Procurement Alliance or in collaboration with other RSLs, for contractor or consultant appointments, assuming this satisfies all the criteria set out in section 7 of this policy , which may assist it in accelerating the procurement process providing pre-qualified parties to tender for contracts.   10. REGISTER  10.1 The 2014 Act requires the Association to maintain a register of regulated procured contracts. This register will record the date of award of contract, the name of the contract, subject of contract, estimated value of contract and the start and end date of contract.  10.2 The Register will be retained by the Director and will be available to view on our web page at [www.ruchazieha.co.uk/Guide](http://www.ruchazieha.co.uk/Guide) to information  **11REVIEW**  This Policy will be reviewed every 3 years but can be brought forward to reflect any changes in Regulations or Procurement Thresholds. |
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**APPENDIX 1**

**Summary of thresholds from 1 January 2020 (net of VAT)**

The EU procurement thresholds values change every 2 years and the table below lists updated contract value thresholds that Contracting Authorities (Housing Associations) must follow for all European procurement procedures from 1 January 2020. More info can be found on Scottish Government website <https://www.gov.scot/publications/new-eu-procurement-thresholds-from-1-january-2020/>

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| **Contracting Authorities** | **Public Contracts Type** | **New Threshold (net of VAT)** |
| Central government bodies | Supplies or Services | **£122,976** |
| Other contracting authorities (e.g. HA, RSL, LA etc) | Supplies or Services | **£189,330** |
| All Contracting Authorities | Works | **£4,733,252** |
| “Light Touch Regime” services | **£663,540** |
| Small lots / Supplies or Services | **£70,778** |
| Small lots / Works | **£884,720** |

**Scottish Procurement Thresholds**

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| **Contracting**  **Authorities** | **Public Contract Type** | **Threshold**  **(net of VAT)** |
| All Contracting  Authorities | Supplies or Services | **£50,000** |
| Works | **£2,000,000** |

The procedure for the award of any contract depends upon the estimated value of that contract. 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).

**APPENDIX 2**

**Internal Thresholds as per Financial Regulations**

**June 2019**

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| **Section** | **Transaction Value** | **Procurement Policy** | **Procurement Requirements** | **Commitment To Spend Approval** | **Invoice / Payment Authorisation** |
| Property Maintenance | < £500 | No | n/a | Office Administrator | Property Services Officer |
|  | < £1500 | No | n/a | Property Services Officer | Director |
|  | £1501 - £5000 | Yes | Specification & 3 quotes | Director | Director |
|  | £5001 -£25000 | Yes | Specification & 3 quotes | Management Committee | Chair Person or Secretary |
|  | > £25001 | Yes | Tendering Process | Management Committee | Chair Person and Secretary |
| Office Administration, General Expenses & Rent Accounting | < £500 | No | n/a | Office Administrator | Housing and Corporate Services Officer / Director |
|  | < £1500 | No | n/a | Housing and Corporate Services Officer / Director | Director |
|  | £1501 - £5000 | Yes | Specification & 1 quote | Director | Chair Person or Secretary |
|  | £5001 -£25000 | Yes | Specification & 3 quotes | Management Committee | Chair Person or Secretary |
|  | > £25001 | Yes | Tendering Process | Management Committee | Chair Person and Secretary |
| Payroll Activities | Payment within the agreed annual EVH salary rates | No | n/a | Finance Officer / Director | Director and review by Office Bearer |
|  | Payment outwith the agreed annual EVH salary rates | No | n/a | Management Committee | Director and review by Office Bearer |
| Management Committee Expenses | Payment within the agreed RHA Policies | No | n/a | Management Committee | Chair Person / Vice Chair Person / Secretary |
| Staff Expenses - excluding Director | Payment within the agreed annual EVH T&C / RHA Policies | No | n/a | Director | Director |
| Staff Expenses - Director | Payment within the agreed annual EVH T&C / RHA Policies | No | n/a | Management Committee | Chair Person / Vice Chair Person / Secretary |