

FORTH HOUSING ASSOCIATION LIMITED

PROCUREMENT

Code: FIN 06

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Cross Reference: GOV 18 Entitlements,
Payments and Benefits Policy
GOV 20 Risk Management
FIN 01 Financial Regulations
FIN 02 Financial Procedures
DEV 04 Contractor Insolvency
Risk Mitigation Guidance



This document can be made available in various formats such as in larger print, audio-format and Braille. It can also be made available in other languages, as appropriate.

Policy Summary

This policy has been developed to show how Forth Housing Association manage procurement of works to comply with relevant legislation and to ensure that they are delivered in a fair and transparent way and offers value for money.

Equalities

No equalities issues have been identified in the Equalities Impact Assessment Screening Questions therefore there is no requirement to do a full Equality Impact Assessment.

Privacy

As tenant information related to procurement activities may be passed to a third-party contractor, from the Association’s approved list there is a requirement to note this in the Privacy Impact Assessment. Passing of this information is confidential and in accordance with the GDPR statements signed by contractors upon acceptance of services. There is no change to the data collected or shared therefore there is no requirement to do a full Privacy Impact Assessment.

Policy Owner

Name: Director
Date of Next Review: February 2028

FORTH HOUSING ASSOCIATION LIMITED

PROCUREMENT

1.0 Introduction

1.1 Forth Housing Association will aim to ensure that value for money is obtained in respect of all of its procurement activities. It will ensure that all of its decisions in relation to the procurement of goods and services.

- Are delivered in a fair, transparent, open and accountable manner.
- Comply with all legislative and regulatory requirements and apply sector good practice. Involve our tenants and those impacted by our procurement activities where practicable.
- Embed the principles of sustainable procurement in all activities.

1.2 The Association is required to comply with the Public Contracts (Scotland) Regulations 2015 and the Procurement (Scotland) Regulations 2016 and The Procurement Reform (Scotland) Act 2014, which sets out the Scottish Model of Procurement. This defines 'how' we buy goods and services and sets the principals of:

- Embedding sustainability in all we do.
- Improving supplier access to public contracts.
- Maximising efficiency and collaboration.
- Delivering savings and benefits.

1.3 The term 'Procurement' as used in this policy covers the process of commissioning all services, supplies and works by all departments within Forth Housing Association. This includes, but is not restricted to, development and maintenance contracts; property, IT, and other consultants' services; energy and office supplies etc.

1.4 The term 'Supplier' as used in this policy will be deemed to include the supply of all services, goods, supplies or works, including contractors and consultants.

2.0 Principles

2.1 This policy outlines that the Management Committee of Forth Housing Association has overall approval of project procurement methods, where single stage competitive tendering is not used.

2.2 Thresholds set out within this policy are in line with the Scheme of Delegated

Authority which outlines what decisions staff can make within certain pricing/budget parameters, alongside those outlined within the Financial Regulations policy (FIN01).

3.0 Aim and Objectives

3.1 It is the aim of Forth to:

- Achieve Best Value for all development, maintenance and office services contracts procured by the Association, including the appointment of consultants, through the operation of efficient and effective procurement procedures and by recognising that lowest cost will not always represent best value.
- Ensure probity through transparency and accountability at all stages of the procurement process, including public advertising of contracts.
- Ensure compliance with statutory legislation and guidance in the carrying out of any procurement activity.
- Contracts below the 'Regulated Contracts' thresholds set out in The Procurement Reform (Scotland) Act 2014 will be procured in accordance with Procurement Procedures following the same overall principles in terms of demonstrating probity and value for money, and in a manner proportionate to the nature of such smaller contracts.
- Prepare or update as required a Procurement Strategy in advance of any financial year where the Association anticipates exceeding £5 million of regulated procurement within that financial year; or, when such procurement has not been foreseen, as soon as it becomes apparent that the procurement threshold will be exceeded.
- Prepare an Annual Procurement Report as soon as is practicable after the close of any financial year where the Association exceeds £5 million of regulated procurement.

3.2 The objectives of this policy are to ensure that Forth Housing Association:

- Follows the new procedures that have been implemented since the UK left the EU on 31st December 2020, by advertising any contract that would have been above the previous EU threshold. The new procedure requires the contract to be advertised on Find a Tender Service (FTS) which is carried out via Public Contracts Scotland.
- Is able to demonstrate that value for money has been achieved, both in the commissioning of individual contracts, and as an organisation as a whole.
- Ensure that all suppliers appointed by the Association are sufficiently competent, have sufficient resources and are committed to improving the service provided to customers.
- Is committed to protecting the health and safety of our employees, customers, members of the public and suppliers' employees.

- Is committed to promoting innovation in the delivery of services to customers.
- Is committed to improving equalities and the economic prosperity of the communities in which we work.
- Ensure the equal treatment of all suppliers, the confidentiality of all information received from them, and transparency and proportionality for all aspects of the procurement process.

4.0 Policy Framework

Legal Framework

4.1 The legal framework for public procurement includes the following:

- A. The Procurement Reform (Scotland) Act 2014 and associated Fair Work First in Procurement policy September 2021.

<https://www.legislation.gov.uk/asp/2014/12/contents>

The Procurement Reform (Scotland) Act 2014 applies to all Scottish Public Bodies undertaking procurement activity within a regulated value. A contract is regulated if:

- it is a public contract
- the estimated value of the contract is equal to or greater than the contract threshold, and
- the contract is not an excluded contract

Contracts likely to exceed the thresholds must be awarded via Public Contracts Scotland which in turn will pre-populate our Regulated Contracts Register. Appendix 3 shows the regulated values.

The fundamental principles of the Act include:

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

Regulated Procurements: Legislation must be complied with for contracts over the thresholds set out in Appendix 3. The procurement of contracts above these values will be procured and awarded through Public Contracts Scotland, Scotland Excel or Find a Tender Service if seeking to advertise the tender throughout the UK

Non-regulated Procurements: Lower Value contracts are described as contract values that fall below the regulated thresholds levels and can be procured with or without the need to advertise them on Public Contract Scotland. Guidance is provided in Appendix 3 of this policy

Other Contracts: Contracts that fall below the value for Regulated Procurements Thresholds do not need to comply with Scottish Procurement Legislation. However, there is an over-arching requirement to achieve best value and transparency, and this can be achieved by advertising contracts on Public Contracts Scotland.

B. Procurement Act 2023

The Procurement Act (2023) does not apply in Scotland however it includes a number of regulation-making powers which are necessary to ensure that the legislation will continue to facilitate a modern procurement structure for many years to come and will allow the UK to keep pace with technological advances, new trade agreements and ahead of those who may try to use procurement improperly.

The Scottish Government has opted not to join the UK Government Act and will retain their own procurement regulations in respect of devolved Scottish authorities but it is good practice to be aware of this Act even though it will not be referred to in our decision making process.

C. The Scottish Housing Regulator

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

- Outcome 13 – Value for Money - Social landlords manage all aspects of their businesses so that: tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.
- Outcomes 14 & 15 – Rents and Service Charges - Social landlords set rents and service charges in consultation with their tenants and other customers so that:
- a balance is struck between the level of services provided, the cost of the services, and how far current and prospective tenants and other customers can afford them; and
- tenants get clear information on how rent and other money is spent, including any details of individual items of expenditure above thresholds agreed between landlords and tenants.

D. Scottish Government Guidance

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

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

Related Policies

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

Business Plan

The association prepares a Business Plan which is updated annually and sets out:

- The vision aims and key strategic objectives for the Association
- The main actions to be completed in the first years of the plan and how these complement the relevant key strategic objectives
- The agreed budget for the first year of the plan and longer-term financial projections

Financial Regulations (FIN01)

In addition to the above regulatory provisions, the Association's Financial Regulations Detail Committee, and staff responsibilities together with details of generally accepted best practice.

Risk Management Policy (GOV20)

Forth recognizes that risk is an inevitable part of our work, and effective risk management optimises the balance between risk and control. The Risk Management Policy sets out to recognise the areas of risk and to ensure that the appropriate policies, procedures, and systems are in place to minimise them.

Entitlements, Payments & Benefits Policy (GOV18)

This policy describes the entitlements, payments or benefits that Forth's employees and Committee Members can receive. It also describes what is not permitted and the arrangements that the Association has in place to ensure that the requirements of this policy are observed.

Procurement Approach

4.3. The Procurement Reform (Scotland) Act 2014 requires Housing Associations

(and all other contracting authorities) to produce procurement strategies and annual reports when they expect to have 'significant procurement expenditure' in a given financial year. The defined threshold for 'significant' is £5M or more of regulated procurement; regulated contracts are works contracts of £2M or more, or services contracts of £50k or more.

- 4.4 The Association will carry out procurement on all contracts above the regulated threshold values and ensure that procurement and associated contracts:
- Are being undertaken in compliance with Scottish Law, principles of equal treatment, non-discrimination, transparency, proportionality, and mutual recognition.
 - Are being undertaken in compliance with the sustainable procurement duty.
 - Contribute to the carrying out of the Association's functions and the achievement of our key strategic objectives.
 - Deliver value for money.
 - Describe how we intend to achieve prompt payment in the supply chain.
- 4.5 In addition if a Procurement Strategy is required to be formulated due to regulated contracts exceeding £5million in a single financial year, the strategy will set out our general guidance on:
- The use of community benefit requirements
 - Consulting and engaging with those affected by our procurement.
 - The payment of a living wage to persons involved in producing, providing, or constructing the subject matter of regulated procurements.
 - Promoting compliance by contractors and sub-contractors with the Health and Safety at Work etc. Act 1974 and any provision made under that Act.
 - The procurement of fairly and ethically traded goods and services
- 4.6 The Association will also, where,regulated procurement has exceeded £5 million in a financial year complete and submit an Annual Report on our procurement activity in that financial year, which will report on compliance with these factors. This will be published as soon as practicable after the end of each financial year.
- 4.7 The Association will maintain a Contract Register, for all regulated procurement, which sets out the goods, services and works procured by the organisation, the value and duration of the contract, and the supplier appointed.

Roles and Responsibilities

- 4.8 The key roles and responsibilities in relation to the procurement of contracts by the Association are ultimately overseen by our Management Committee.

FHA Management Committee will review, provide guidance and approve

procurement of regulated and unregulated tender exercises where necessary. Staff authorisation levels in relation to spend are noted in Appendix 3.

- 4.9 The procurement function will be led by the Manager of the relevant department responsible for procurement of the contract, whose primary role will be to:
- develop, promote, and implement appropriate procurement strategies and procedures, including authority to procure
 - assess procurement competencies across the organisation and establish and address training needs
 - provide professional, qualified procurement expertise, advice, and services which may well be to appoint an external agency to conduct procurement on our behalf
 - contribute to the aims and objectives of the Association and take account of business needs and wider policy requirements
 - pro-actively manage and develop our supplier base, including small and medium-sized enterprises (SMEs) and third sector and voluntary sector organisations, identifying, and managing any supply risks or value-added opportunities
 - ensure that value for money is achieved
 - ensure adherence to this procurement policy, current legislation, and best practice
 - support sustainability and corporate responsibility through procurement processes
 - measure and report on procurement performance
- 4.10 The term 'Procurement Officer' is used to describe any member of staff who is involved in the procurement of goods, services, or works. The key elements of a Procurement Officer's role are to:
- determine contract requirements and establish specifications in collaboration with end users
 - establish cost-effectiveness, taking account of whole life costs and corporate social responsibility/sustainability issues
 - identify and engage with other experts as required (e.g., consultants, end users, legal advisors, other internal departments etc.)
 - develop an appropriate output-based specification to attract market interest and stimulate competition and innovation
 - consider existing and/or collaborative contracts
 - ensure that all procurement processes (tender, order from framework etc.) are compliant with relevant legal and policy obligations by advertising through the national portal where appropriate. If a service, goods, or works are procured by other means, such as via the Scottish Procurement Alliance or Scotland Excel, any awards must be made via Public Contracts Scotland as regulated contracts will be added to the Contracts Register automatically

- publicise procurement contact points and make available as much information as suppliers reasonably need, including answering queries in order to respond to the bidding process.
- understand and comply with relevant legal obligations relating to the goods, services or works to be purchased, e.g., environmental/health and safety legislation
- manage the procurement procedure
- conduct any procurement clarification required prior to contract award
- finalise the contractual agreement and formal contract documentation
- establish a clear audit trail (including recording the contract on the contract register)
- notify the outcome of bids promptly and, within the bounds of commercial confidentiality, debriefing winners, and losers on the outcome of the bidding process to facilitate better performance on future occasions
- ensure that adequate contract and supplier management arrangements are in place
- share knowledge to develop best practice
- provide support and guidance to the end user/customer

4.11 Detailed guidance on individual aspects of procurement practice is available through Public Contracts Scotland, the Scottish Government's 'Scottish Public Fair Working Practice in Procurement Toolkit' and Procurement Journey Scotland.

Central Purchasing Bodies

4.12 The Association will consider procuring contracts through a 'Central Purchasing Body' if Value for Money can be demonstrated through this method of procurement. A Central Purchasing Body is a public body that has procured a contract for specific works, services or supplies on behalf of themselves and/or other public bodies. The Association will satisfy itself that all Scottish procurement legislation has been complied with by the Central Purchasing Body prior to entering any contract through this route. Examples of Central Purchasing bodies include The Scottish Procurement Alliance and Scotland Excel who advertise a host of tender frameworks under their umbrella.

Partnering/Joint Collaboration/Alliances

4.13 It should be noted that 'Partnering' is not a procurement route, rather it is a term used to describe a non-confrontational way of working through which all parties, including clients and suppliers act as a single team to achieve common goals. It is about developing systems and methods to enable people and organisation's to operate more effectively and efficiently together irrespective of the nature of the project or the method of procurement used, and it is intended to overcome old confrontational ways of working.

- 4.14 Strategic and Project Specific Partnering Agreements will be considered by the Association where added value can be clearly demonstrated, or where entering a partnering arrangement is likely to lead to additional business opportunities for Forth which would not otherwise be available.
- 4.15 As with Central Purchasing arrangements the Association will satisfy itself that all Scottish procurement legislation is complied with prior to entering any contract through this route.
- 4.16 In respect of new build developments, Forth Housing will seek to collaborate with Stirling Council in the provision of affordable housing and will investigate opportunities to work with developers on new housing development projects when these become available. A Section 75 agreement is often part of developer-led opportunities; this is a legal contract entered into by the Local Authority and the landowner as part of the planning application process. The agreement may restrict use of the land or regulate activities on the land being developed; where the agreement requires provision of affordable housing as a proportion of the properties the landowner wishes to develop, the developer must enter into an agreement with a Registered Social Landlord for the acquisition of these properties. Forth Housing will appraise each such opportunity that becomes available.
- 4.17 Forth Housing will actively seek to engage in joint procurement exercises with our partners under the Strathfor Alliance. To facilitate these joint ventures all partners will work collaboratively to ensure the procurement requirements of individual organisations are considered and aligned. At present Forth Housing Association has undertaken joint procurement in relation to the gas servicing contract in partnership with Rural Stirling Housing Association.

5 Monitoring of the Policy

- 5.1 The Management Committee will review this policy at least every 3 years and staff are responsible for ensuring that it meets legal and good practice requirements.
- 5.2 The Head of Tenant Services will monitor and report on the application of this policy through our quarterly performance reports.

6.0 Complaints and Appeals

- 6.1 Forth Housing Association welcomes complaints and positive feedback, both of which provide information which helps us to improve our services. We use a complaints procedure developed by the Scottish Public Services Ombudsman (SPSO) and the Scottish Housing Regulator.

The complaints procedure allows for most complaints to be resolved by front line staff within a five day limit (first stage), or if the complaint is complex, a detailed investigation will be made by a manager within a 20 day limit (second stage). At the end of the second stage our response will be made by a director. If the customer remains dissatisfied, he/ she may then refer the matter to the SPSO.

At each stage we will advise the customer how the complaint should be taken forward and advise which agency would be most appropriate to consider the case.

7.0 Equalities

7.1 Equality and diversity underpin all our activities and services. When delivering our services, we never discriminate on the basis of sex or marital status, race, disability, age, sexual orientation, language, social origin, or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions. Full details of our Equalities Policy can be found on our website www.forthha.org.uk or can be obtained from our office.

8.0 Data Protection - Privacy

8.1 We recognise the importance of data protection legislation, including the General Data Protection Regulation, in protecting the rights of individuals in relation to personal information that we may handle, use and disclose about them, whether on computer or in paper format. We will ensure that our practices in the handling, use and disclosure of personal information as part of the processes and procedures outlined in this policy comply fully with data protection legislation. More information is available from our Data Protection Officer

9.0 Availability

9.1 This policy is available on our website and can be made available in a number of other languages and other formats on request.

10.0 Review

10.1 This policy will be reviewed at least every 3 years by the Management Committee and staff are responsible for ensuring that it meets legal and good practice requirements.

Appendix 1 Equality Impact Assessment Screening Questions

Forth Housing Association Ltd Equality Impact Assessment Screening Questions

Procurement

Will the implementation of this policy have an impact on any of the following protected characteristics?

- | | | |
|-----------------------------------|------------------------------|--|
| 1. Age | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Disability | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Gender reassignment | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Marriage and Civil Partnership | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 5. Pregnancy and Maternity | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 6. Race | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 7. Religion or belief | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 8. Sex | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 9. Sexual orientation | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

If you have answered 'Yes' to any of these points, please complete a full Equality Impact Assessment. If you have answered 'No', you need take no further action in completing an Equality Impact Assessment

Appendix 2 Equality Impact Assessment Screening Questions

Forth Housing Association - Privacy Impact Assessment

- 1. A substantial change to an existing policy, process or system that involves personal information Yes No

- 2. A new collection of personal information Yes No
- 3.. A new way of collecting personal information (for example collecting it online) Yes No
- 4. A change in the way personal information is stored or secured Yes No
- 5. A change to how sensitive information is managed Yes No
- 6. Transferring personal information outside the EEA or using a third-party contractor Yes No
- 7. A decision to keep personal information for longer than you have previously Yes No
- 8. A new use or disclosure of personal information you already hold Yes No
- 9. A change of policy that results in people having less access to information you hold about them Yes No
- 10. Surveillance, tracking or monitoring of movements, behaviour or communications Yes No
- 11. Changes to your premises involving private spaces where clients or customers may disclose their personal information (reception areas, for example) Yes No

If you have answered 'Yes' to any of these points, please complete a full Privacy Impact Assessment. If you have answered 'No', you need take no further action in completing a Privacy Impact Assessment.

Appendix 3 – Procurement Thresholds

Procurement Reform (Scotland) Act 2014 Regulated Contract Thresholds:

Supplies	£50,000 excluding VAT
Services	£50,000 excluding VAT
Works	£2,000,000 Excluding VAT

Association thresholds:

Below £10,000	The relevant authorised staff members have discretion to decide whether competitive quotations are obtained. As per the Financial Regulations, anything at this contract's value does not fall under the procurement procedure but needs to be budgeted for. Any additional spend however such as front funding of services would need Management Committee approval.
Between £10,000 and £20,000	At least three competitive quotations must be sought, and a record maintained of all quotations received via Public Contract Scotland.
Above £20,000	Formal tendering procedures must be followed using the Public Contracts Scotland.

Exceptions to the above are as follows:

- where a developer or other party brings an opportunity to the Association and the terms of the proposed arrangements will require the Association to contract with them or another named company
- where consultants are being used and there is a reason to offer a particular firm the work (for example if they have unique skills or have carried out work at risk)
- where works have been included as part of a schedule of rates contract which has been tendered in the usual way and the cost of the repairs does not exceed £20,000

- where works and services are procured where no satisfactory alternative is available as the work is considered so specialised, for contracts below the lower regulated threshold
- where works and services are only available from a limited number of suppliers in which case, a reasonable number should be invited to quote or tender for contracts below the lower regulated threshold.
- where goods and materials are of a proprietary nature and no satisfactory alternative is available, for contracts below the lower regulated threshold
- where, for other definable reasons, open competition would not be appropriate e.g., in the case of long-term agreements, negotiated tenders or monopolies, for contracts below the lower regulated threshold