

## Investment & Regeneration

# Building Works Procurement Policy

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# Building Works Procurement Policy

## BUILDING WORKS PROCUREMENT POLICY

### Aim

- 1.1 The Association aims to ensure value for money in the procurement of building works and related services.

### Introduction

- 2.1 This policy should be read in the context of the Association's Procurement Policy
- 2.2 The policy sets out the methods by which the Association will procure building works, in particular the selection of consultants and contractors and the procurement options.
- 2.3 The policy establishes the process for the selection and appointment of contractors and consultants to provide services to the Association.
- 2.4 The Association will, in so far as is practicable, adopt procurement policies and procedures that suitably protect the public investment that it receives from the risks relating to the process of building projects.
- 2.5 The Association will comply with all the procurement policy requirements of the Scottish Government and the European Community Public Procurement Regulation. Contracts will be advertised if their contract value is within the published limits of the EC.
- 2.6 The Board will approve an Asset Management Strategy which will include a programme of building works for Investment and Regeneration. The Asset Management Strategy will be subject to an annual review.
- 2.7 The Annual Review will include the related budget requirements, proposals for the selection of consultants, contractors and the proposed procurement method. A Project Brief will be prepared for all projects which will be in line with the Investment and Regeneration Procedures. The Association's detailed Investment and Regeneration Procedures set out how the Building Works Procurement Policy will be implemented and are contained in separate documents.

### Good Practice Construction Client

- 3.1 The Association will develop its procedures to become a good practice construction client.
- 3.2 The Association will embrace the principles of a good practice client as follows:
  - Provide client leadership by appointing a project officer
  - Set clearly defined objectives and targets for projects through the brief
  - Develop relevant key performance indicators, e.g. zero defects, waste minimisation and reported accidents
  - Adopt partnering, where appropriate;

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- Promote a team based non adversarial approach;
- Encourage a fair payment regime throughout the supply chain;
- Use quality based selection of the construction and design team, if appropriate;
- Involve all the relevant parties in the supply chain in the design process;
- Assess performance and provide feedback;
- Promote sustainability by adopting a sustainability policy;
- Arrange appropriate training of staff.

3.3 The Association will set targets for the management of its own works programme.

#### Selection and Appointment of Consultants

##### Approved list of consultants

- 4.1 The Association will maintain an Approved List of Consultants. The minimum entry requirements will be set within the 'Procedures for Approved List of Consultants'.
- 4.2 A standard application form will be used for all consultants who wish to join the approved list. The minimum criteria for inclusion on the Approved List will include technical capabilities, appropriate experience, suitable professional indemnity insurance, equality of opportunity, a health and safety policy and references. All professional and technical services, including the design services provided by Design & Build Contractors, will be provided by chartered members of the appropriate professional bodies, able to produce a certificate of Professional Indemnity Insurance.
- 4.3 Applications will be sought for a full range of consultancy services, including architectural, quantity surveying, building surveying, civil and structural engineering, mechanical and electrical engineering, employer's agent and CDM co-ordinator.
- 4.4 The list will remain permanently open and additions to, suspensions or deletions from the list will be reported to the Management Board for approval.
- 4.5 The Association will maintain an in-house technical team and will ensure that work is considered for the in-house team, where appropriate skills are available, before external consultants are considered.

##### Selection of Consultants

- 5.1 All consultants will be selected from the Approved List of Consultants, except where it has been agreed through the Investment and Regeneration Annual Review that the in-house technical team will undertake the consultant role or the consultant is part of a project sponsored by a developer.

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- 5.2 The recommendations for the selection of an appropriate team of consultants will have due regard to the following matters:
- Brief for type of works planned
  - Options for the procurement route
  - Estimated contract values
- 5.3 The tender lists for projects in the Annual Investment and Regeneration Review and within budget will be approved by the Director of Investment and Regeneration or CEO based on the commitment levels set out in the 'Commitment and Payment for Supplies and Services'.
- 5.4 The tender lists for new projects and those outwith budget will be presented to the Board for approval.
- 5.5 The options for procuring consultants are as follows:

Contract Value	Selection Options
Below £500,000	Negotiate or Tender
Above £500,000	Negotiate, Tender or Quality based assessment
Advertised through OJEU	Quality based assessment

Consultancy commissions will be advertised through the OJEU following the ECPPR procedures where the cost of the services is above the limits prevailing at the time of tender invitation.

- 5.6 The performance of all external consultants will be monitored and their performance reviewed at the end of each commission. A report will be presented to the Association annually on the results of the performance reviews undertaken in previous twelve months.

### *Follow-on appointments*

- 5.5 Where a consultant is required to undertake follow-on work directly related to a previous contract, which was awarded on a competitive basis, and the consultant is the best equipped to carry out the required work, reappointment without competitive tender is permitted subject:
- To the prior written approval of the Director of Investment and Regeneration
  - To the provisions of the ECPPRs
  - The negotiated fee offers value in comparison with a competitive fee

The possibility of a follow-on appointment should be considered at the time of the original competitive tender and, if appropriate, provision for an extension option should be made in the contract.

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### Conditions of Appointment

- 6.1 All consultant appointments will be made in writing with reference to the standard terms of engagement as recommended by their professional membership bodies. Terms of appointment will include the detail of the services required, the fee payable and a schedule of interim payments related to the completion of agreed work stages.
- 6.2 Where a partnering arrangement is the chosen procurement route, then all consultants will be parties to the partnering charter.

### Selection and Appointment of Contractors

#### Approved list of contractors

- 7.1 The Association will maintain an Approved List of Contractors. The minimum entry requirements will be set within the 'Procedures for the Approved List of Contractors'.
- 7.2 A standard application form will be used for all contractors who wish to join the Approved List of Contractors. The information collected will include financial and technical capability, capacity, staff, experience, insurance, health and safety, equality of opportunity, customer care, references and membership of appropriate trade bodies.
- 7.3 The list will remain permanently open and additions to, suspension from or deletions from the list will be reported to the Management Board for approval.
- 7.4 All contractors will be expected to adopt the Association's Code of Conduct for Contractors.
- 7.5 Applications will be sought for a full range of contracting services.
- 7.6 The Association will maintain an in-house repairs team in some area office teams.

#### Selection of Contractors

- 8.1 All contractors will be selected from the Approved List of Contractors for all works, except where a contractor is the sponsor of a design and build project. Even in the latter case, the standard evaluations will be undertaken.
- 8.2 Response repairs and other appropriate planned maintenance works may be allocated to the in-house repairs team, in locations where they are available. Where there is no in-house team or the in-house team does not have sufficient capacity, term maintenance contractors will be allocated the response repair work in the first instance.
- 8.3 The recommendations for the selection of an appropriate contractor or tender list of contractors will have due regard to the following matters:
  - Brief for type of works planned

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- Options for the procurement route
  - Estimated contract values
- 8.4 The performance of all contractors will be monitored and their performance reviewed at the end of each contract. A report will be presented annually on the results of the performance reviews undertaken in previous twelve months.

#### Financial thresholds and minimum number of tenders

- 9.1 The tender lists for projects in the Annual Investment and Regeneration Review and/or within budget will be approved as follows based on the commitment levels set out in the 'Commitment and Payment for Supplies and Services'.
- 9.2 The following requirements should be treated as the minimum and tender lists should be of sufficient size to take account of the possibility of all submissions not being returned.
- 9.3 The Association will use the Public Contracts Scotland portal to tender all commissions and contracts over the value of £100,000. The contracts will be openly advertised and, subject to a two stage process, where the value is estimated to be over £2,000,000. The portal and advertising regime may be used for lower value contracts where appropriate. The Director of Investment and Regeneration (or the Director of Finance, when absent) will approve the publication of all notices through the portal.
- 9.4 The tender lists for new projects and/or outwith budget will be presented to the Board for approval.

#### *Expenditure below £10,000*

- 9.5 Does not require competition, but staff and consultants, acting on behalf of ACHA, have a duty to achieve value for money and must retain appropriate evidence of this. One written quotation is the minimum.

Approval by appropriate officer level and budget holder

#### *Expenditure in excess of £10,000 and below £20,000*

- 9.6 MUST be subject to competition.

This may take the form of written quotations, where a formal competitive tender, would result in disproportionate administration costs, unacceptable delays or inefficiencies. At least three quotations should be sought.

Approval by appropriate officer level and budget holder

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*Expenditure of £20,001 to £ 500,000*

- 9.7 Requires a minimum of three formal competitive tenders to be invited.

The number of tenders invited should take account of the possibility of submissions not being returned. Therefore, unless there is certainty that three tenders will be returned, it is recommended that four or five tenders be invited.

If procurement is to be via a two-stage approach (with tenderers initially being asked for outline details, from which a shortlist will be selected to submit detailed bids), then six to 10 tenders should be invited for the first stage of outline/brief proposals, with three or four being invited to submit detailed proposals.

Approval by Director of Investment and Regeneration or CEO

*Expenditure of £500,001 to EC threshold*

- 9.8 As 9.7, except Approval by Management Board

*EC Threshold and above*

- 9.9 Procurement must be in accordance with the European Communities Public Procurement Regulations ("ECPPRs"). A minimum of five tenders should be invited after pre-qualification

Approval by Management Board

*EC Thresholds Summary*

- 9.10 If a contract is expected to equal or exceed these limits, ACHA must comply with ECPPRs.

	<b>Supplies</b>	<b>Services</b>	<b>Works</b>
From 31 January 2010	£156,442	£156,442	£3,927,260

The thresholds are exclusive of VAT.

*Single tender action*

- 9.11 Exceptionally, where tender or competitive quotation is not practical (e.g. for the supply of specialist equipment or services), fixed price services or in cases of extreme emergency (e.g. to remove a risk to public safety), single tender procurement may be authorised by the Chief Executive up to £50,000. Above this level, any proposal for single tender will require the prior approval of the Board.

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### *Follow-on appointments*

9.12 Where a contractor is required to undertake follow-on work directly related to a previous contract, which was awarded on a competitive basis, and the contractor is the best equipped to carry out the required work, reappointment without competitive tender is permitted subject:

- To the prior written approval of the Director of Investment and Regeneration
- To the provisions of the ECPPRs

The possibility of a follow-on appointment should be considered at the time of the original competitive tender and, if appropriate, provision for an extension option should be made in the contract.

### **Contractual Arrangements**

10.1 All instructions to Contractors to undertake work will be in writing and will include as a minimum a description of the works, the agreed price and a timescale for completion.

10.2 Building work will be instructed on the basis of a formal exchange of letters referring to the contract documents.

10.3 Where a partnering arrangement is the chosen procurement route then the main contractor will be party to the partnering charter. Sub-contractors may be invited to become parties to the partnering charter.

### **Payment of Contractors**

11.1 The Association will ensure that all payments are made promptly within the period stated in the contract. Where there is no contract or the contract does not stipulate the payment period, then all valid invoices for work satisfactorily completed will be paid within 30 days of receipt.

### **Code of Conduct for Contractors**

12.1 The Association will expect all of its Contractors to follow the Code of Conduct for Contractors and will assess compliance with the Code when undertaking a review of the performance of a contractor.

### **Procedures for opening tenders**

13.1 Where competitive quotations or competitive tenders are invited they shall be opened in accordance with detailed tender opening procedures in the Procurement Policy i.e. the quotation method will apply for contract values under £20,000 and the formal tender opening procedure for over £20,000. See Appendix 1 – Tender Opening Procedures.

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### Procurement Route Options

- 14.1 A range of procurement routes are available to the Association. These include a traditional single stage selective tender, two stage selective tender, design and build, negotiated serial tender, partnering or a framework agreement
- 14.2 The Management Board of the Association will be presented with Asset Management Strategy, which will include a procurement plan, and this will be reviewed annually in December each year by the Director of Investment and Regeneration. The proposed building works programme will include recommendations for the most appropriate procurement route. Recommendations will be based on the value of the contracts and the best value in terms of quality and price that can be achieved.

### Supply Chain Arrangements

- 15.1 The Association recognises that there may be cost and quality benefits by entering into direct contractual arrangements with the suppliers of standard components for investment and regeneration work. These options will be included, where appropriate, in the annual plan for investment and regeneration.
- 15.2 The co-ordination of information technology systems between the Association and its main contractors, sub-contractors and suppliers will be investigated to allow the electronic transfer of work instructions and related documentation to improve the speed and efficiency of procurement.

### Innovation

- 16.1 The Association will seek innovative solutions in procuring building works and will develop strategies for minimising waste, improving energy efficiency, the use of renewable energy technology and a wide range of sustainable design ideas.

### Emergencies

- 17.1 Where, in exceptional circumstances, due to emergency or special circumstances, it is necessary to make a quick decision the relevant senior manager shall have authority, to appoint consultants or contractors out with the Procurement Policy and this action will be presented to the next board meeting for homologation.

### Review

- 18.1 Policy to be reviewed every three years and additions and deletions from the lists of approved Contractors and Consultants will be reviewed as required.
- 18.2 The Management Board will receive the following reports:

Asset Management Strategy Annual Review (Annually)  
KPIs against Investment and Regeneration Plan (Bi-monthly)

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## APPENDIX 1 - TENDERING PROCEDURES

### ***Tender Invitation***

Tenders will be issued with a return label on an envelope which will include the contract reference number and will be endorsed with the date and time of receipt at the office.

### ***Late Tenders***

Any competitive tenders received after the time specified for the receipt of tenders will be rejected and will be returned promptly to the tenderer unopened.

### ***Tender Evaluation***

The method for evaluating tenders will be set out in writing in the tender documents and any scoring system will be agreed before the tenders are invited. No qualifications to the tender documents will be accepted.

### ***Procedure - Minimum Requirements***

There are two alternative tender opening procedures, firstly for lower value work where competitive quotations are invited and then for higher value work where full tender documents are prepared and competitive tenders invited.

### ***Procedure for Opening Quotations***

- 1 The procedure applies only to projects under £20,000.
- 2 Quotations, when received, will be recorded and held in a safe place until the time of opening, and quotations received after the appointed time will not be considered and will be returned unopened.
- 3 Quotations must be returned to the Association's office. The Association's representatives at tender openings must consist of the relevant senior manager and the relevant administrative member of staff.
- 4 As they are opened, the quotations will be recorded in the Quotation Register which is kept in a safe place. The entry in the Quotation Register should be as follows:-
  - a) Name of Project
  - b) Estimate of quotation
  - c) List of Quotations Issued
  - d) List of Quotations Returned
  - e) Date of Quotation Issue
  - f) Date of Quotation Return
  - g) Name of Contractors

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- h) Amounts of Quotations
- 5 Any necessary further comments should be added, together with a direction as to the action required.
- 6 All those present should sign the Register.

#### ***Procedure for Opening Formal Tenders***

Tenders, when received, will be recorded and held in a safe place until the time of opening. After receipt of bids from tenderers, a formal system of opening and evaluating formal tenders will be followed. The tender award decision has to be made by an evaluation panel or Management Board.

#### Tender Opening

At the time of issuing the Tender, a Tender Opening Team will be agreed comprising at least three members of staff, including a Director. Normally it will include the relevant Director and Manager and the Project Officer unless agreed otherwise in the Project Brief.

Tender Opening Team will:

- open the tenders and record the following details on the Tender Form;
  - a) Name of Project
  - b) Estimate of tenders
  - c) List of Tenders Issued
  - d) List of Tenders Returned
  - e) Date of Tender Issue
  - f) Date of Tender Return
  - g) Name of Contractors
  - h) Amounts of Tenders
- check compliance with the schedule of tender documents and record any omissions;
- sign the Tender Form, noting any discrepancies;
- ensure that the opened tenders are held secure until handed to the evaluation panel.

#### Tender Evaluation

The Tender Panel will normally comprise the relevant Director, Manager and the Project Officer unless agreed otherwise in the Project Brief.

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The role of the Tender Panel is to:

- convene within five days of the opening of the tenders or receipt of tender report
- receive the opened tenders
- use the criteria already established to evaluate the bids commercially, technically, financially and compare the most favourable bid with the target price and budget
- arrange for appraisal (if necessary) within the validity period
- the examination of tenders will be carried out in accordance with the principles of the Code of Procedure for Single Stage Selective Tendering published for the National Joint Consultative Committee for Building in force for the time being
- carry out post tender negotiations if appropriate
- make a recommendation for award (or not) within the validity period
- complete and sign off the tender evaluation
- if above £500,000 and not within budget, prepare a report for the Management Board for approval.

### Tender Board

The Director of Investment and Regeneration will approve all procurement of £50,000 or over exclusive of VAT when within an agreed budget.

The Finance and Audit Committee will approve all procurement of £50,000 or over exclusive of VAT not included in the budget

The role of the Tender Board is to:

- receive the results of the evaluation from the Tender Panel
- review the information and decision making process
- confirm that the winning bid represents best value for money
- approve, reject or refer back the award recommendation
- sign off the tender evaluation

### Notification to Unsuccessful Tenderers

As soon as possible after the contract award has been made and accepted the association will advise unsuccessful tenderers. For contracts subject to ECPPRs:

- dispatch, within the appointed time period, a notice for publication in the OJEU of the contract award; and
- notify unsuccessful tenderers with appropriate de-brief information.

### ***Tender Acceptance***

Tenders will be accepted in writing under the hand of a Director or Manager with reference to the final agreed tender amount and any agreed amendments.

### ***Tender Register***

The Director of Investment and Regeneration will maintain a register of all tenders received under the formal procedure. The standard tender register form will be used.