

## Organisational Policy

# Procurement Policy

## PROCUREMENT POLICY

### **Our Commitment**

*The Argyll Community Housing Association Group is committed to provide equal opportunities across all services and to avoid discrimination. This document is intended to assist the Group in putting this commitment into practice. Compliance with this policy should also ensure that governing body members do not commit unlawful acts of discrimination.*

***This document can be made available in other formats, for example in large print, audio-format or Braille: the document may also be available in other languages, in full or summary form, as appropriate.***

## Organisational Policy

# Procurement Policy

### Contents

Section 1 – Context .....	3
Section 2 – The law and good practice .....	3
Section 3 – Our Policy Objectives .....	6
Section 4 – Implementing our policy objectives .....	7
Section 5 – Performance management .....	10
Section 6 - Development and training .....	10
Section 7 – Dealing with complaints .....	11
Section 8 – Review procedures .....	11
Section 9 – Confidentiality and data protection .....	11
APPENDIX A – PROCUREMENT THRESHOLDS .....	12
APPENDIX B – ACHA PROCUREMENT ACTIVITY .....	14
APPENDIX C BUILDING PROCUREMENT .....	15
APPENDIX D OTHER PROCUREMENT .....	20
APPENDIX E - TENDERING PROCEDURES .....	23

## Organisational Policy

# Procurement Policy

### Section 1 – Context

- 1.1 Argyll Community Housing Association Ltd (ACHA) is the registered social landlord for over 5000 properties within the Argyll & Bute area. ACHA undertakes procurement to buy goods and services for many activities of our business.

### Section 2 – The law and good practice

- 2.1 ACHA is a registered social landlord (RSL) registered with the Scottish Housing Regulator (SHR) and an industrial and provident society registered with the Financial Conduct Authority (FCA) and a charity registered with the Office of the Scottish Charity Regulator (OSCR). ACHA's Constitution is its Rules.

Therefore, legislation relevant to this policy includes:

- 2.2 European Community (EC) Treaty

The EC Treaty applies to all public procurement activity and is supported by EU Procurement Directives

Fundamental principles flowing from the Treaty 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; and

- 2.3 European Union (EU) Procurement Directives and implementing Scottish Legislation:

**EU Regulated Procurements:** EU legislation must be complied with for contracts over the thresholds set out in Appendix A. The procurement of contracts above these values will be termed 'EU Regulated Procurements'.

**Lower Value Regulated Procurements:** The EU Directives are given effect in Scots law by The Procurement Reform (Scotland) Act 2014 which came into force on 18<sup>th</sup> April 2016. This legislation has introduced lower thresholds for contracts procured by public bodies, which are set out in Appendix A. The procurement of such contracts is termed 'Lower Value Regulated Procurements'.

**Other Procurements:** Contracts that fall below the value for 'Lower Value Regulated Procurements' do not need to comply with EU or Scottish procurement

## Organisational Policy

### Procurement Policy

legislation. However there is an over-arching requirement of EU Directives that probity be demonstrated at all times when public bodies procure services, supplies and works.

#### 2.4 European Court of Justice and national case law

Decisions of the European Court of Justice and the UK and Scottish national courts provide interpretation of the requirements of the EC Treaty and the EC Procurement Directives and can establish precedents which must be observed. This is constantly evolving, and ACHA must ensure that it has appropriate arrangements in place to ensure that members of staff involved in procurement activity are kept up to date with developments in the legal framework.

#### 2.5 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. The 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 & Service Charges - Social landlords set rents and service charges in consultation with their tenants and other customers so that: (1) 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 (2) 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.

#### 2.5 Scottish Government Guidance

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

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

## Organisational Policy

# Procurement Policy

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

### 2.6 Corporate Strategic Plan

ACHA prepares a 5 Year Strategic Plan, which is updated annually and set out:

- The vision, aims and key strategic objectives for ACHA
- 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 draft budget for the remaining four years.

### 2.7 Schedule of Delegated Authority, Purchasing Procedure and Financial Regulations

These documents set out authorisation levels for:

- The appointment of suppliers, including contractors and consultants
- Payment of suppliers

### 2.8 Risk Management Policy

ACHA recognises that risk is an inevitable part of our work, and effective risk management optimises the balance between risk and control. The Risk Management Strategy sets out:

- Risk management process
- Key roles and responsibilities
- Procedures for assessment, evaluation, monitoring and reporting

### 2.9 Asset Management Strategy

The Asset Management Strategy sets out how ACHA will ensure the long term sustainability of all housing stock. It sets out:

- Details of our housing and non-housing stock
- Investment plans for existing stock
- Regeneration plans for new build projects
- Risk Assessment specific to these activities
- An 'Options Appraisal' process to be followed where significant issues are identified with any of the housing stock

### 2.10 Payment and Benefit Policy

This policy describes the payments or benefits that ACHA employees, Board members and Area Committee members are able to receive. It also describes what

## Organisational Policy

### Procurement Policy

is not permitted and the arrangements that ACHA has in place to ensure that the requirements of this policy are observed.

#### Section 3 – Our Policy Objectives

3.1 The objectives of this policy are to ensure that we are able to demonstrate that:

- Value for money has been achieved, both in the commissioning of individual contracts, and as an organisation as a whole
- All suppliers appointed are sufficiently competent, have sufficient resources and are committed to improving the service provided to customers
- We are committed to protecting the health and safety of our employees, customers, members of the public and suppliers employees
- We promote innovation in the delivery of services to customers
- We are committed to improving equalities, and the economic prosperity of the communities in which we work
- We ensure equal treatment of all suppliers, confidentiality of all information received from them, and transparency and proportionality for all aspects of the procurement process.

## Organisational Policy

# Procurement Policy

### Section 4 – Implementing our policy objectives

- 4.1 ACHA must comply with the EU Public Procurement Regulations and the Procurement Reform Act (Scotland) 2014. Due to the minor differences between the legislation for ‘EU Regulated Procurements’ and Scottish ‘Lower Value Regulated Procurements’, it is our intention, as far as practicable, and in order to avoid confusion, to follow the full EU compliant processes for all contracts above the ‘Lower Value Regulated Procurement’ thresholds. See Appendix A for the procurement levels.
- 4.2 Contracts below the ‘Lower Value Regulated Contracts’ threshold will be procured in accordance with Procurement Policy 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. See Appendix A.

### 4.3 Procurement Strategy

Procurement includes the acquisition of goods, services and works from third parties, whether under formal contract or otherwise. ACHA procures a wide range of goods, services and works, and a brief summary is included in Appendix B.

The total value of contracts procured by ACHA is above the £5 million threshold for which a Procurement Strategy is required by legislation.

In terms of the planning and delivery of the procurement of goods, services and works, we will prepare a Procurement Strategy for the period January 2017 to March 2018, and review this on an annual basis. This will contain, as a minimum, information on how expected ‘Regulated Procurements’:

- Are being undertaken in compliance with EU Treaty 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 our functions and the achievement of our key strategic objectives
- Deliver value for money
- Describe how we intends to achieve prompt payment in the supply chain

In addition our Procurement Strategy will set out our general policy on:

- Community benefit requirements, particularly in respect of procurements over £4 million.
- Consulting and engaging with those affected by our procurement

## Organisational Policy

### Procurement Policy

- 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
- Ensuring prompt payment within 30 days of invoices for contracts

We will complete and submit an Annual Report on our Procurement Strategy, which will report on compliance with these factors. This will be published as soon as practicable after the end of each financial year.

We will maintain a Contract Register which sets out the goods, services and works procured by the organisation, the value and duration of the contract, and the supplier appointed. We will use the Contract Register facility on Public Contracts Scotland for goods and services that are regulated procurements.

#### 4.4 Roles and Responsibilities

The key roles and responsibilities in relation to the procurement of contracts by ACHA are illustrated below:

Board of Management	Provide appropriate governance and organisational arrangements. Ensure sufficient skilled resources and that the procurement function is recognised in wider organisational policies.
Relevant Departmental Director	Ensure that the function is appropriately staffed, organised and supported to deliver procurement requirements.
Managers & Officers	Deliver user requirements whilst ensuring compliance with legislation and achieving Best Value.

The procurement function will be led by the Director 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 and establish training needs
- provide professional, qualified procurement advice;
- contribute to the aims and objectives of ACHA, and take account of business needs and wider policy requirements
- ensure that value for money is achieved;
- ensure adherence to this procurement policy, current legislation and best practice;



## Organisational Policy

### Procurement Policy

- support sustainability and corporate responsibility through procurement processes;
- measure and report on procurement performance;

#### 4.5 Summary of Procedures

This section provides a brief summary of the procedures we will follow whilst carrying out our regulated procurement activity.

The Public Contracts Scotland will be used for all regulated procurement and for most non-regulated procurement.

We will generally follow the 'Open' (single stage) or 'Restricted' (two stage) Procedures as set out in the EU Legislation. Generally, where timescales permit, the Restricted Procedures will be followed whereby there is a selection of shortlisted tenderers, followed by a more detailed tender submission for those shortlisted.

Both processes may or will require:

- Initial project notifications (sometimes called a PIN notice) as soon as the decision to proceed with the project has been made, if streamlined procedures are to be followed.
- Publication of a Contract Notice to start the tender procedure
- A pre-selection shortlisting process, in the case of two stage tendering
- A tendering exercise to all interested parties (single stage) or shortlisted parties (two stage)
- Ideally between 3 and 5 Tenders should be sought
- A Quality and Price assessment of tenders submitted
- Publication of a Contract Award Notice
- The observation of a 10 day 'Contract Standstill' period before appointment of the preferred tenderer, for EU Regulated and Lower Value Regulated Contracts
- The provision of constructive feedback on submissions to all successful and unsuccessful bidders, where requested
- If the nature of the contract is such that three suitable Suppliers cannot be identified we will seek quotes from one or two suitable suppliers, provided that value for money can be demonstrated
- All suppliers must complete the relevant European Single Procurement Document and in the Contract Notice any specific requirements, relevant exclusion grounds and minimum standards that are relevant for the procurement exercise will be added. Any information provided must have been assessed and deemed to be satisfactory, prior to the supplier being appointed by ACHA.
- Where a procurement exercise results in a 'Framework' of shortlisted suppliers being appointed, the tender documentation will set out clearly how 'Call Off' contracts will be awarded to suppliers on a fair and consistent basis

## Organisational Policy

### Procurement Policy

- Quotations and Tenders should be issued, received and retained as set out in separate procedures for the 'Tendering Procedures' in Appendix E

Appendix D includes further detail on the procurement of Building Works

#### 4.6 Central Purchasing Bodies

We will consider procuring contracts through a 'Central Purchasing Body' provided that 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. ACHA will satisfy itself that all EU and Scottish procurement legislation has been complied with by the Central Purchasing Body prior to entering into any contract through this route.

#### Section 5 – Performance management

- 5.1 ACHA operates within a performance management framework which reports to and aims to meet the requirements of our tenants, factored owners, Board of Management, the Scottish Housing Regulator and the Scottish Social Housing Charter.
- 5.2 As required by Section 31 of the Housing (Scotland) Act 2010, the Scottish Social Housing Charter sets out the standards and outcomes that all social landlords should aim to achieve when performing their housing activities.
- 5.3 Internally, performance will be monitored regularly by ACHA's Senior Management and bi- monthly by the Board of Management. Performance information will also be provided, on a regular basis to our tenants, via the Tenants Newsletter and to the Tenants Panel. We will publish performance information to our tenants and service users in our Landlord's Report annually.

Externally, the Scottish Housing Regulator will monitor performance in terms of outcomes and standards achieved in line with the requirements of the Scottish Social Housing Charter. We will, annually, submit key performance information on our achievements to the Regulator.

#### Section 6 - Development and training

- 6.1 Staff involved in procurement will be suitably qualified and trained.

## Organisational Policy

### Procurement Policy

- 6.2 All ACHA staff will undertake mandatory Customer Care and Diversity training.
- 6.3 We will ensure that all contractors, consultants and suppliers working for us are qualified to supply all the goods and services relevant to a procurement in a safe and appropriate manner.

#### Section 7 – Dealing with complaints

- 7.1 We value complaints and endeavour to use information from them to help us improve our services. Any complaints will be dealt with the matter through our Complaints Handling Procedure.

#### Section 8 – Review procedures

- 8.1 This policy will be reviewed every three years or earlier if required due to substantive changes in legislation or regulatory requirements.

#### Section 9 – Confidentiality and data protection

- 9.1 We will ensure that we meet the requirements of the Data Protection Act 2002.

Policy Owner	Investment and Regeneration
Author	Linda Haig
Policy Creation Date	September 2016
Review Period	3 years
Review Committee	Board of Management
Next Review Date	

**APPENDIX A – PROCUREMENT THRESHOLDS**

**EU Regulated Contract Thresholds:**

Supplies	£164,176	€209,000
Services	£164,176	€209,000
Works	£4,104,394	€5,225,000

N.B All figures are current as at 1<sup>st</sup> January 2016 and are exclusive of VAT.

**Lower Value Regulated Contract Thresholds:**

Supplies	£50,000
Services	£50,000
Works	£2,000,000

N.B All figures are current as at 1<sup>st</sup> January 2016 and are exclusive of VAT.

**ACHA Procurement Limits**

Below £10,000	The relevant authorised staff members have discretion to decide whether competitive quotations are obtained.
Between £10,000 and £50,000	At least three competitive quotations must be sought and a record maintained of all quotations received or tendering procedures followed.
Above £50,000	Tendering procedures must be followed.

Exceptions to the above are as follows:

- where a developer or other party brings an opportunity to ACHA and the terms of the proposed arrangements will require ACHA to contract with them or another named company
- where works are to be added to contracts based on a schedule of rates or model contract which has been tendered in the usual way.
- where works and services are procured where no satisfactory alternative is available
- 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
- where goods and materials are of a proprietary nature and no satisfactory alternative is available

## Investment and Regeneration

- where, for other definable reasons, open competition would not be appropriate e.g. in the case of long-term agreements, negotiated tenders or monopolies.

## Investment and Regeneration

### APPENDIX B – ACHA PROCUREMENT ACTIVITY

Procurement Activity	Budget December 2016 to March 2018 £s	Procurement between Jan 2017 and March 2018 £s	Comments
Building Contracts for new housing developments	9700000	2300000	
Building Contracts for capital investment in existing houses	12125000	9700000	
Contractors for cyclical maintenance & service contracts	1700000	1200000	Includes contracts with subsidiary
Consultants for all of the above	235000	170000	
Reactive/void maintenance	2825000	2300000	Includes contracts with subsidiary
Insurance Services	600890	600890	
IT and Telephony	356750	356750	
Vehicle and Plant Leasing and Hire	1325	1325	
Legal Services	278339	278339	
Electricity and heating costs	189989	189989	
Professional Services	90438	90438	
Cleaning, Pest Control and Refuse Collection	111586	111586	
Printing and Photocopying	84466	84466	
Postages	52653	52653	
Community Alarms and Out of Hours Service	19429	19429	
Training	42673	42673	
Hire of Facilities and Hospitality	40340	40340	
Cash Collection	32500	32500	
Furniture & Fittings	31713	31713	
Consultants	30563	30563	
Stationery	27763	27763	
Advertising	14500	14500	
<b>Total</b>	<b>28590914</b>	<b>17675914</b>	

### APPENDIX C BUILDING PROCUREMENT

#### 1.0 Introduction

The procurement of building works and services constitutes the major part of ACHA's investment and the particular requirements related to this procurement are set out in this appendix.

#### 2.0 Selection and Appointment of Consultants

##### 2.1 Approved list of consultants

We will maintain an Approved List of Consultants. The minimum entry requirements will be set within the 'Procedures for Approved List of Consultants'.

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.

Applications will be considered 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. The list will remain permanently open and the approval of additions and suspensions will be delegated to the Director of Investment and Regeneration.

Removal from the list will be subject to the approval of the Board of Management and at least three years must elapse before this decision is reviewed.

ACHA 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.

##### 2.2 Selection of Consultants

All consultant appointments above the Regulated limits will follow the Regulated Procedure, except where the consultant is part of a project sponsored by a 'design and build' developer.

Appointments below the Regulated limits will be based on the Approved List of Consultants, except where it has been agreed that the in-house technical team will undertake the consultant role or the consultant is part of a project sponsored by a 'design and build' developer.

## Investment and Regeneration

The recommendations for the selection of an appropriate tender list for a 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

The tender lists for projects 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'.

### 2.3 Follow-on appointments

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 Regulated Procurement  
The negotiated fee offering value in comparison with a competitive fee

### 2.4 Conditions of Appointment

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.

### 3.0 Selection and Appointment of Contractors

#### 3.1 Approved list of contractors

ACHA will maintain an Approved List of Contractors. The minimum entry requirements will be set within the 'Procedures for the Approved List of Contractors'.

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.

The list will remain permanently open and the approval of additions and suspensions will be delegated to the Director of Investment and Regeneration.

Removal from the list will be subject to the approval of the Board of Management and at least three years must elapse before this decision is reviewed.



## Investment and Regeneration

All contractors will be expected to adhere to ACHA's Code of Conduct for Contractors.

Applications will be considered for a full range of contracting services.

ACHA have a 'Repairs Subsidiary' and the subsidiary will be considered for any repairs and cyclical contracts that relevant to their skill set.

### 3.2 Selection of Contractors

All contractor appointments above the Regulated limits will follow the Regulated Procedure, except where it has been agreed that the 'Repairs Subsidiary' can offer value for money or where a contractor is the sponsor or land owner of a design and build project.

Appointments below the Regulated limits will be based on the Approved List of Contractors, except where it has been agreed that the 'Repairs Subsidiary' can offer value for money or where a contractor is the sponsor or land owner of a design and build project.

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
- Options for the procurement route
- Estimated contract values

The performance of all contractors will be monitored and their performance reviewed at the end of each contract or annually for longer term contracts.

### 4.0 Financial thresholds and minimum number of tenders

The tender lists for projects in budget will be approved based on the commitment levels set out in the 'Commitment and Payment for Supplies and Services'.

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.

ACHA 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 will approve the publication of all notices through the portal.

The tender lists for projects outwith budget will be presented to the Board for approval.

### 4.1 Expenditure below £10,000

## Investment and Regeneration

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.

### *4.2 Expenditure in excess of £10,000 and below £50,000*

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.

### 4.3 Non- Regulated Procurement Expenditure of £50,001 to £ 2,000,000 (Construction Works Only)

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.

There is a choice to tender to a list selected from the current Approved List of Contractors or to advertise through PCS with a two stage selection procedure.

### 4.4 Regulated Procurements

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

### 5.0 Single tender action

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.

### 6.0 Follow-on appointments

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 Regulated Procurements

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.

### 7.0 Contractual Arrangements

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

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.

### 8.0 Payment of Contractors

ACHA 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.

### 9.0 Code of Conduct for Contractors

We 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.

### 10. Emergencies

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.

### APPENDIX D OTHER PROCUREMENT

#### 1.0 Introduction

The procurement of supplies and services other than building works and services involves significant expenditure and ACHA needs to demonstrate value for money in such procurement and compliance with procurement legislation. The particular requirements related to these procurements are set out in this appendix.

ACHA must comply with the EU Public Procurement Regulations and the Procurement Reform Act (Scotland) 2014. Due to the minor differences between the legislation for 'EU Regulated Procurements' and Scottish 'Lower Value Regulated Procurements', it is our intention, as far as practicable, and in order to avoid confusion, to follow the full EU compliant processes for all contracts above the 'Lower Value Regulated Procurement' thresholds. See Appendix A for the procurement levels.

Contracts below the 'Lower Value Regulated Contracts' threshold will be procured in accordance with Procurement Policy 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. See Appendix A.

Before tendering for the supply of goods and services there are a number of issues to consider:

- The first issue to consider before commencing on the procurement journey is whether you have your Organisation's authority to procure goods and or services on their behalf.
- The second issue to consider is the necessity for the procurement and the availability of budget:
  - Is a purchase essential?
  - Have alternative demand management options been considered?
  - Is there a robust and approved business case / budget?
- The third issue to consider is the availability of an existing Contract / Framework Agreement (in accordance with its terms & conditions) which meets the procurement regulations and thus avoid a separate additional procurement.

#### 2.0 Financial thresholds and minimum number of tenders

The tender lists for projects in budget will be approved based on the commitment levels set out in the 'Commitment and Payment for Supplies and Services'.

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.

## Investment and Regeneration

ACHA will use the Public Contracts Scotland portal to tender all commissions and contracts over the value of £50,000. 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 relevant departmental director will approve the publication of all notices through the portal.

The tender lists for projects outwith budget will be presented to the Board for approval.

### **3.0 Expenditure below £10,000**

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.

### **4.0 Expenditure in excess of £10,000 and below £50,000**

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.

### **5.0 Regulated Procurements (those in excess of £50,001)**

Procurement must be in accordance with the European Communities Public Procurement Regulations. A minimum of five tenders should be invited.

### **6.0 Single Tender Action**

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.

### **7.0 Follow-on Appointments**

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

To the prior written approval of the relevant director.

To the provisions of the Regulated Procurements

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.

### **8.0 Contractual Arrangements**

All procurements must be subject to placing of an order or a written contract where subject to tendering and follow the guidance set out in the Procurement Journey website.

### **9.0 Payment of Suppliers**

ACHA 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.

### **10.0 Emergencies**

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 procure supplies and services outwith the Procurement Policy and this action will be presented to the next board meeting for homologation.

### APPENDIX E - TENDERING PROCEDURES

#### 1.0 Public Contracts Scotland (PCS)

PCS will be used for all procurements, where possible. This will exclude the requirement for paper tenders to be received. All tender invitations will be electronic and all tender returns will be electronic.

#### 2.0 Tender Invitation

Where a paper based tender is required, 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.

#### 3.0 Late Tenders

PCS tender box will not accept any tenders posted after the tender return date. 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.

#### 4.0 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.

#### 5.0 Procedure for Opening Formal Tenders

PCS allows for the opening of the tender box after the return date. Up to three staff will be nominated to open the tender box electronically.

Paper based 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.

#### 6.0 Tender Opening

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.

Tender Opening Team will open the tenders and record the following details on the Tender Form:

- Name of Project
- Estimate of tenders

## Investment and Regeneration

- List of Tenders Issued
- List of Tenders Returned
- Date of Tender Issue
- Date of Tender Return
- Name of Contractors
- 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.

### 7.0 Tender Evaluation

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

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 within budget, the relevant Director will approve the tender award.
- if above £500,000 and not within budget, prepare a report for the Board of Management approval.

### 8.0 Tender Board

The relevant Director will approve all procurement of £10,000 or over exclusive of VAT when within an agreed budget.

The Board of Management will approve all procurement of £50,000 or over exclusive of VAT not included in the budget

### 9.0 Notification to Successful and Unsuccessful Tenderers

As soon as possible after the contract award has been made and accepted ACHA will advise unsuccessful tenderers.



## Investment and Regeneration

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

### 10.0 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.

### 11.0 Tender Register

The Directors will maintain a register of all tenders receive