



CUNNINGHAME
HOUSING ASSOCIATION

*Making Our Communities Better Places
More Than Just A Landlord*

**CHA Group Policy
Governance Policy No: DCS002
Procurement Policy**

Policy Originally Approved by the Board of Management	Policy Reviewed	Review Cycle 1 Year Policy Review Date	Policy Linkages
12/05/1994	24/03/2016 24/05/2018 21/06/2019 06/07/2020 14/04/2021 09/05/2022 18/05/2023	18/06/2024	Public Contracts (Scotland) Regulations 2015. Procurement Reform (Scotland) Act 2014 Scottish Social Housing Charter November 2022 CHA Financial Regulations Policy No: CSF0044 CHA Scheme of Delegation Framework CHA Risk Management Framework Scottish Housing Regulator 'The Development of Affordable Housing in Scotland (March 2017)

To achieve compliance with the Association's Rulebook and Regulatory Standards and Guidance Compliance for this document.

Standard 1	The governing body leads and directs the RSL to achieve good outcomes for tenants and other service users.
Guidance 1.3	Decision-making complies with the RSL's constitution (which adheres to Regulatory Standards and constitutional requirement) and its legal obligations.

As per the Scheme of Delegation Ref No: 19 a copy of the yearly policy review is submitted to the Audit Sub Committee.

Contents

1. Introduction.....	2
2. Definition	2
3. Legislative Provisions	2
4. Compliance with Corporate Policy & Strategy	2
5. Procurement Activity Principles	3
6. Contractor/Consultant/Supplier Selection.....	3
7. Contract Values.....	3
8. Choice of procurement procedure	5
8.1 Procedures under the Regulations – Rules which apply to all procedures .	5
8.2 Procedures under the Regulations – Specific procedures	6
8.3 Procedures under the Act	11
9. Evaluation and scoring of tender submissions.....	12
10. Contracts Register.....	13
11. Procurement Strategy and Annual Procurement Report.....	14
12. Procurement of development agreements.....	16
13. Risk Management	17
14. Policy Implementation	18
15. Training and Development	18
16. Compliance with Relevant Performance Standards	18
17. Public Accountability	19
18. Review	19

1. Introduction

This policy seeks to establish a procurement framework which sets out the most cost effective and acceptable way of securing the quality of service we require from contractors, consultants, and suppliers.

2. Definition

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

3. Legislative Provisions

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

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

- the Regulations will apply to contracts with a value which meets or exceeds a prescribed threshold. The current applicable value thresholds are £213,477 inclusive of 20% VAT (Indicative value excluding 20% VAT £177,897) for supplies or services and £5,336,937 inclusive of 20% VAT (Indicative value excluding 20% VAT £4,447,447) for works; and
- the Act will apply to contracts with a value below the value thresholds at which the Regulations apply but with a value which is equal to or greater than the thresholds set out in the Act (currently £50,000 (exclusive of VAT) for supplies or services and £2,000,000 (exclusive of VAT) for works).

The procedure for the award of any contract depends upon the estimated value of that contract – further details are set out in sections 7 and 8 of this policy.

Our approach to procurement aims to reflect a range of legislative, governance and operational matters as well as emerging Government policy. The influences on our procurement policy include Acts of the Scottish Parliament, Regulations, Scottish Government guidance and best practice.

4. Compliance with Corporate Policy & Strategy

All procurement decisions will be taken in direct compliance with the Association’s strategic and corporate documents, including;

- Financial Regulations Policy (incorporating the authority to incur and authorise expenditure and the financial limits set);
- Scheme of Delegation Framework (setting out control elements and responsibilities of the Board and Senior Officers);

- Risk Management Framework (risk assessments to be undertaken to support chosen procurement route);
- Corporate Strategy and Business Plan; and
- the Association's policies and procedures.

5. Procurement Activity Principles

At the outset of each project the Association will agree and follow a sound procurement strategy which is based on best practice and reflects all relevant guidance.

In selecting our preferred strategy for procurement, we aim to demonstrate a sound rationale for selecting the particular procurement route, setting out the selection criteria to be applied to potential contractors, consultants and suppliers and the award criteria to be applied. We aim to maintain and operate a clear framework for decision making and an appropriate system for the recording of audit trails.

A procurement strategy in respect of each maintenance and development project must be approved by the Development & Care Services Sub Committee at the outset of each such project.

6. Contractor/Consultant/Supplier Selection

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

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

7. Contract Values

The procurement route chosen will be guided by the value of the contract although there will be circumstances from time to time in which the Association may justify departure from the principles set out below.

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

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

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

Contract Type	Contract Value (inclusive of VAT unless noted)	Procurement Procedure
Works	£5,336,937 and above (Indicative value excluding 20% VAT £4,447,447)	Find a Tender Service (FTS) Procedure under the Regulations
Supplies / Services	£213,477 and above (Indicative value excluding 20% VAT £177,897)	FTS Procedure under the Regulations
Works	£2,000,000 and above (exclusive of VAT)	Regulated procurement under the Act
Supplies / Services	£50,000 and above (exclusive of VAT)	Regulated procurement under the Act
Works / Supplies / Services	Less than £50,000 (Supplies/Services) or less than £2,000,000 (Works) (exclusive of VAT)	Unregulated procurement

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

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

- Low Level - requirements up to £5,000
- Mid-Level - requirements from £5,000 up to £50,000
- High Level - requirements above £50,000

A low-level requirement will normally be dealt with by verbally contacting one or two suppliers. Evidence of any verbal transaction should be retained on file.

A mid-level requirement will normally be dealt with by issuing formal letters to 3 or more suppliers and asking them to submit quotes.

A high-level requirement will require to be advertised formally on the Public Contracts Scotland ("PCS") website and follow a procedure more similar to an FTS procedure with more formal tender documentation and/ or a brief to accompany the advert. A contract award notice will also require to be placed on Public Contracts Scotland once a contract has been awarded in respect of a high-level requirement.

In respect of high-level requirements for supplies and services (and in respect of works contracts with a value of £2m or more), the Association must have regard to its sustainable procurement duty. This means the Association must consider how the procurement can improve the social, economic, and environmental wellbeing of its area; facilitate the involvement of Small and Medium Enterprises ("SMEs"), third sector bodies and supported businesses in the process; and promote innovation. The Association must carry out its procurement with a view to securing those improvements.

8. Choice of procurement procedure

8.1 *Procedures under the Regulations – Rules which apply to all procedures*

This section of the Policy provides an overview of each of the most relevant procedures under the Regulations. Each of these procedures is subject to certain minimum timescales. A guidance note has been included in the Appendix to this policy to assist Association staff in determining the minimum timescales which apply to a particular procurement procedure.

In relation to all procedures under the Regulations:

- A specific tender notice must be placed in the FTS via the PCS website, and consideration given as to whether it would be appropriate to also advertise on the Association's website and / or in a suitable professional/trade journal or the press;
- Following the contract award decision, the Association must notify the successful and unsuccessful bidders of the contract award decision. Unsuccessful bidders must be given information on:
 - the scores they obtained;
 - the reasons why they obtained those scores;
 - the identity of the successful bidder;
 - the scores awarded to the successful bidder's tender submission; and
 - the "characteristics and relative advantages" of the successful bidder's tender submission compared to their own tender submission;
- A mandatory "standstill" period must be observed between the date of the notices informing bidders of the outcome of the procedure and entering into the contract with the successful bidder;

- If contract award notices are issued electronically, then the standstill period starts on the day after the date of issue of the contract award notices and ends at midnight on the tenth day from that day;
- If contract award notices are issued by post, then the standstill period starts on the day after the date of issue of the contract award notices and ends at midnight on the fifteenth day from that day;
- If the last day of the standstill period is not a working day, then the standstill period must be extended to include the next working day. For example, if the ten or fifteen day standstill period ends on a Saturday, then the period must be extended until the next Monday. This also applies where the standstill period ends on a recognised bank holiday;
- Once the applicable standstill period has expired, the Association may enter into a contract with the successful bidder;
- Following completion of the tender procedure, the Association must publish a contract award notice in the FTS via the Public Contracts Scotland website; and
- Any complaint about, or challenge to, an Association contract award procedure or any situation which could be reasonably expected to lead to such a complaint or challenge must be notified to the Executive Director of Development immediately on the relevant Association staff member becoming aware of it. If a challenge is raised within the standstill period relative to a particular contract, all correspondence in relation to the challenge must immediately be passed to the Executive Director of Development for review.

8.2 Procedures under the Regulations – Specific procedures

Open Procedure

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

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

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

<https://www.procurementjourney.scot/espdsdp/spd-documents>

Use of the SPD under the Open Procedure

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

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

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

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

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

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

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

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

Clarification of tenders under the Open Procedure

Under the open procedure, the Association can ask bidders to clarify aspects of their tenders following submission. In the event that the Association identifies that a tender contains any clerical or genuine arithmetical errors, the Association may give the bidder in question the chance to correct the error, but no other adjustment,

revision or qualification is permitted in respect of such errors. Material changes to the terms of tenders are not permitted and the Association may not negotiate with bidders after submission of tender responses.

When to use the Open Procedure

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

- the Association is aware that "off-the-shelf" solutions are available for a particular requirement;
- the Association is aware that there is a well-established supplier market that can meet the particular requirement;
- the Association anticipates that there is likely to be only a limited and manageable number of responses to the tender; and / or
- the Association anticipates that tender responses will be simple to evaluate.

As all interested parties may submit a tender, the open procedure is unlikely to be appropriate where there is any complexity in the evaluation process for practical reasons or where the Association anticipates a significant volume of responses and wishes to limit the number of bidders invited to the tender stage of the process.

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

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

Restricted Procedure

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

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

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

Use of the SPD under the Restricted Procedure

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

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

<https://www.procurementjourney.scot/espdsdpd/spd-documents>

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

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

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

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

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

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

Clarification of tenders under the Restricted Procedure

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

When to use the restricted procedure

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

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

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

- the Association is aware that there is a large market for the particular market and, therefore, there are likely to be a large number of interested parties;
- the Association considers that there is a genuine need to pre-qualify tenders in order to ensure that only suppliers with the necessary financial standing,

previous experience and / or technical or professional ability are invited to tender;

- the Association anticipates that there is likely to be a large and unmanageable number of responses to the tender; and / or
- the Association anticipates that tender responses will be complex to evaluate.

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

8.3 Procedures under the Act

There are no specific prescribed procurement procedures or timescales under the Act but the Association may, if appropriate, use any one of the procurement procedures under the Regulations described in section 8.2 of this policy for procuring contracts which are subject to the terms of the Act.

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

Bidders should be advised to submit any clarification requests in relation to tender documentation and / or contract documentation through the Public Contracts Scotland website or directly to the Association by another means (for example, by email to a specific Association email address) and these clarification requests and answers will be available to all bidders (either through the Public Contracts Scotland website or by another means) to ensure transparency and anonymity.

Bidders should be advised to only submit their tender submissions through the Public Contracts Scotland website or by another specific method (for example, by email to a specific Association email address or in hard copy to the Association at its registered office).

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

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

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

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

9. Evaluation and scoring of tender submissions

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

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

Contracts which are subject to the Regulations and the Act cannot be awarded on the basis of lowest price only and must be awarded on a mix of price and quality.

The "quality" factors which the Association will use to evaluate tenders will depend upon the subject matter of the contract and may include matters such as:

- technical competence or merit;
- quality systems and accreditation;
- compatibility with the Association's values and standards;
- conformance with the Association's policies;
- aesthetic and functional characteristics;
- environmental characteristics;
- running costs;
- cost effectiveness;
- after-sales service;
- technical assistance;
- capacity to deliver in specified timescales;

- delivery date; and
- delivery period or period of completion,

(All as may be considered appropriate in relation to any particular contract).

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

10. Contracts Register

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

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

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

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

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

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

- impede law enforcement or otherwise be contrary to the public interest;
- prejudice the commercial interests of any person; or

- prejudice fair competition between economic operators.

11. Procurement Strategy and Annual Procurement Report

Procurement Strategy

In terms of the Act, the Association must prepare an annual procurement strategy for any financial year in which it estimates that it will have an annual spend of £5 million or more (excluding VAT) on "regulated contracts" – i.e., contracts which need to be procured in terms of the Act.

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

The procurement strategy should set out how the Association intends to carry out its regulated procurements – i.e., procurements with an estimated value equal to or greater than £50,000 (excluding VAT) for goods and services or £2,000,000 (excluding VAT) for a public works contract.

Each procurement strategy must contain the following information:

- how the Association intends to ensure that its regulated procurements will contribute to the carrying out of its functions and achievement of its purposes;
- how the Association intends to ensure that its regulated procurements will deliver value for money;
- how the Association intends to ensure that its regulated procurements will be carried out in compliance with its duty to treat relevant economic operators equally and without discrimination;
- how the Association intends to ensure that its regulated procurements will be carried out in compliance with its duty to act in a transparent and proportionate manner;
- how the Association intends to ensure that its regulated procurements will be carried out in compliance with the sustainable procurement duty – i.e. its duty to consider how a procurement can improve the social, economic and environmental wellbeing of its area; facilitate the involvement of SMEs, third sector bodies and supported businesses in the process; and promote innovation;
- a statement on the Association's general policy on the use of community benefit requirements;
- a statement on the Association's general policy on consulting and engaging

- with those affected by its procurements;
- a statement on the Association's general policy on the payment of a living wage to contractors;
- a statement on the Association's general policy on promoting compliance by contractors and sub-contractors with the Health and Safety at Work etc. Act 1974;
- a statement on the Association's general policy on the procurement of fairly and ethically traded goods and services; and
- a statement on how the Association intends to ensure that, so far as reasonably practicable, payments by the Association to its contractors and payments by the Association's contractors to its sub-contractors are made no later than 30 days after the invoice (or similar claim) relating to the payment is presented.

Annual Procurement Report

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

The annual procurement report must include the following information:

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

The annual procurement report will be prepared by the Executive Director of Development and presented to the Board and will then be published on the Association's website.

12. Procurement of development agreements

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

Accordingly, if the Association is purchasing:

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

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

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

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

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

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

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

If any member of Association staff is considering the acquisition of land or buildings, then they must first prepare a written report for the Board setting out a

business case for the acquisition and obtain the approval of the Board to the proposed acquisition.

The report to the Board must include, without limitation:

- details of the land or buildings in question, including a location plan;
- details of the proposed seller of the land or buildings in question;
- details of whether the acquisition is a back-to-back transaction and if so provide information on the specific parties involved in the transaction
- confirmation that searches have been carried out on the private owner/site vendor to establish financial standing (Companies House search, Dun & Bradstreet report and any other company check necessary to clarify background of all relevant parties).
- a net present value calculation for the land or buildings in question;
- details of the proposed acquisition price;
- an up-to-date valuation of the land or buildings in question from the District Valuer or another suitably qualified and experienced valuer;
- details of the planning status of the land or buildings in question;
- details of the Strategic Housing Investment Plan status of the land or buildings in question;
- the reason(s) why it is considered that the contract can be entered into without any form of public procurement;
- confirmation of the availability of private finance and / or Housing Association Grant to fund the proposed purchase of the land or buildings in question;
- confirmation that any necessary third-party consents to the proposed acquisition, including, without limitation, consent of the Association's lenders, have been obtained; and
- a request for Board authority to purchase the land or buildings in question for a price which is no more than the market value of the land or buildings in question as determined by the District Valuer or another suitably qualified and experienced valuer.

If considered necessary, or if required by the Board, the relevant member of Association staff must obtain appropriate legal advice in relation to the entering into of a contract for the acquisition of land or buildings without any form of public procurement.

13. Risk Management

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

- Failure to comply with relevant legislation leaves the Association open to challenge.
- Failure to introduce a tiered approach does not provide the Association with an appropriate starting point on which to base our procurement decisions.

- Failure to comply with Regulatory Guidance may result in action by the Scottish Housing Regulator.
- Procurement not properly and appropriately conducted may have implications for the budget and the Association's financial and business plans.

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

14. Policy Implementation

The Executive Director of Development Services will be responsible for ensuring this policy is implemented for all contracts and that reports are submitted to the Development Services Sub Committee to allow effective monitoring of this policy.

The Executive Director of Development Services will be responsible for updating this policy as appropriate.

Any queries about this policy should be directed to the Executive Director of Development Services.

15. Training and Development

Staff responsible for implementing this policy will have training appropriate to their needs and to the needs of the Association identified within their personal focus plans to ensure the aims of this policy are met.

Any new staff will be trained on this policy as part of their initial induction process and any updates of this policy will involve staff training on an ongoing basis.

16. Compliance with Relevant Performance Standards

The Scottish Social Housing Charter came into effect in April 2012, and this sets the standards and outcomes that all social landlords should aim to achieve when performing their housing activities.

The Charter replaces the Performance Standards and states in terms of maintenance services landlords should ensure that: 'tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.'

We aim, through operation of this policy and supporting procedures, to demonstrate compliance with the Scottish Social Housing Charter.

17. Public Accountability

This policy is available from any of our reception areas or alternatively can be downloaded from our website www.cunninghame-housing.org

18. Review

This policy will be approved by the Development Services Sub Committee and will be reviewed annually, unless amendment is prompted by change in legislation, operational requirements, customer feedback or as dictated by our Risk Management Strategy.

Date of Policy/Review

This policy was ratified by the Board of Management on 6 July 2023. It will be reviewed no later than 18 June 2024.