
Procurement Policy

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1. Introduction

1.1 The aim of any policy is twofold. Firstly to assist Wellhouse Housing Association (WHA) achieve its strategic objectives which are set out in the Business Plan. Secondly to meet statutory obligations as a Registered Social Landlord and a charity. This means being aware of the relevant legislation and the expectations of the Scottish Housing Regulator (SHR) and Office of the Scottish Charity Regulator (OSCR).

1.2 In order to ensure efficient and effective operation of the Association in matters relating to purchasing and procurement, and to minimise the risk of loss, a set of procedures have been put in place. These procedures reflect good practice generally and are designed to protect the Association. However, they are also designed to protect staff who are involved in the purchasing/procurement process.

1.3 It is in the interests of the Association and staff that these procedures are made known to, and are followed by all staff and Management Committee members. All members of staff and the Committee will be made aware of the procedures and must comply with them in every respect. These policies and procedures have been approved by the Management Committee and senior management and their use is a requirement.

1.4 They are not optional.

1.5 Any failure to follow the policies and procedures by any member of staff or the Management Committee may result in action being taken against the offending individual(s) under the Association's disciplinary procedures for staff and the Code of Conduct for Committee members.

1.6 This policy and procedure is to be read in conjunction with the Financial Regulations, the Entitlements, Payments and Benefits Policy and the Maintenance Policy.

2. Legal and Regulatory Guidance

2.1 As a social landlord, WHA is required to comply with a range of laws and regulations passed by the Scottish Government, the Government of the United Kingdom and the European Union which include purchasing, health and safety, environmental aspects and information disclosure. Responsibilities are set out in the 1987, 2001 and 2010 Housing (Scotland) Acts as well as the Public Contracts (Scotland) Regulations 2012 and any amending legislation. This is in effect the European Procurement Directives. (See below for more information.)

2.2 Attention is also specifically drawn to The Bribery Act 2010. Bribery is defined as giving a financial or other advantage to encourage a person to carry out their activities or functions improperly or to reward them for having done so. If a member of the Association's staff *or their agent* offers or accepts a bribe they would be committing a criminal offence. It is important to appreciate that even if the activities

of the employee or agent are not known to the organisation, the organisation may still be held liable under the provisions of the Act for their actions.

2.3 More information on the Bribery Act can be found at:

www.justice.gov.uk/guidance

Information Requests

2.4 Whilst Housing Associations are not subject to the provisions of the Freedom of Information Act, they are required to respond to information requests made under The Environmental Information (Scotland) Regulations 2004. Any such requests made might very well involve contractors employed by the Association.

European Union Directives

2.5 As mentioned in 2.1, European Union (EU) Directives with regard to procurement and purchasing apply to the Association. The Directives are embodied into UK law in the Public Supply (and Services) Contracts Regulations and in Scotland as the Public Contracts (Scotland) Regulations 2012. The general principle of these directives is that companies in all EU countries are to be given the opportunity to tender for contracts above specified values or thresholds. Currently this applies to contracts for supplies and services with a value above €193,000, and €4,845,000 for 'Works'. These thresholds may change from time to time so should be checked if it is expected that the value of a proposed contract will be greater. See 2.8 for a link to the OJEU website where this information is available.

2.6 The essential requirement is that when the Association intends to seek tenders for contracts above these threshold values, they must advertise this in the Official Journal of the European Union (OJEU). This gives contractors in other EU countries the opportunity to express an interest in tendering.

Under the Regulations, there are four possible procedures:

- Negotiated
- Competitive Dialogue
- Open, and
- Restricted

2.7 In WHA, the 'Restricted' procedure is preferred because it allows for a 'pre-qualification' process which will reduce the time spent analysing tenders. It specifies minimum time periods so that there shall be 37 days between the publication of the notice and the receipt of requests to be considered; 40 days as a minimum tendering period and then a 10 day 'standstill period' for unsuccessful tenderers to raise challenges or queries. This means that excluding time spent analysing submitted tenders, the minimum period from the issue of the notice to the placing of the contract is 87 days.

2.8 There will be few occasions when the Association will be inviting tenders under the OJEU regulations but the requirements need to be borne in mind whenever large contracts are being considered. If there is any doubt that a particular tender should

be progressed under the EU Directives, further advice should be obtained. The OJEU has a website which gives advice:

www.ojeu.com

Scottish Procurement Directorate

2.9 Information and advice about public sector procurement is available on a Scottish Government website:

www.gov.scot/Topics/Government/Procurement

This includes information about procurement legislation, how the Scottish Government views and expects procurement to be carried out and information about EU requirements.

2.10 Information is also available on the Public Contracts Scotland website;

www.publiccontractsscotland.gov.uk

This has a mechanism for advertising new contracts which satisfies regulatory requirements as well as being a source to identify interested tenderers.

Scottish Social Housing Charter

2.11 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 issued in 2006 in guidance arising from the Housing (Scotland) Act 2001. The following outcomes and standards apply to this policy:

Outcome 5 – Repairs, Maintenance and improvements

Social landlords manage their businesses so that tenants' homes are well maintained with repairs and improvements carried out when required and tenants are given reasonable choices about when the work is done.

Standard 13 – Value for Money

Social landlords manage all aspects of their business so that tenants, owners and other customers receive services that provide continually improving value for money for the rent and other charges they pay.

3. Areas of Responsibility

3.1 The Management Committee has the responsibility for ensuring that this policy complies with regulatory and legislative requirements and reflects the Business Plan and budget objectives.

3.2 The senior management team has responsibility for ensuring that this policy is applied to ensure compliance with regulation and legislation and reflects the Business Plan. They have responsibility for the operational delivery of the policy

and for the management, supervision and training of staff involved.

3.3 The Management Team is responsible for ensuring the Association meets its targets in respect of the Annual Return on the Charter and the Finance Team will provide budgetary control, financial support and advice.

3.4 The Technical Team is responsible for the day to day operation of the repairs service liaising with clients and contractors.

4. Policy Principles

4.1 This policy applies to all procurement\purchasing carried out by the Association. For clarity, it applies not just to the appointment of contractors for building type purposes but for **all** services and materials. This includes, but is not limited to the appointment of architects, engineers, clerks of work, auditors, legal services, banking services, office supplies and such like. It is also recognised that whilst some contractors will be employed for a single specific project or task, where the services being purchased are for a series of tasks that are similar or require a knowledge of the Association it may be effective for a contract to be in place for a number of years. See Appendix 8, e.g. maintenance contractors, external and internal auditors.

4.2 It is recognised that there will be occasions when services may need to be obtained in emergency situations and these are covered in paras 5.6 and 6.10 and also that low value contracts will not require the same rigour as high value services.

4.3 WHA recognises that confidentiality is important to the procurement process and will treat all submissions in the strictest confidence under the terms of the Data Protection Act 1998 and amendments and in accordance with the Association's Data Protection Policy.

4.4 The Association's Business Plan sets out the aims and objectives of the organisation over the short to medium term. Achieving these objectives will depend on controlling costs, demonstrating value for money and balancing this with an acceptable level of service delivery which meets the expectations of tenants. The Association will ensure that its procurement of works, services and supplies are affordable, fair, transparent and comparable while ensuring that the organisation is financially viable and sustainable.

4.5 Value for Money (VFM) is a requirement for any successful organisation but it is particularly important for an organisation which holds charitable status and is in receipt of public funds as the Association is. VFM enables the delivery of high quality services and ensures that needs and priorities are met. Successfully embracing VFM will enable the Association to provide better homes and services and contribute to improvements in neighbourhoods.

5 Budgeting and Approval

5.1 The Association's Financial Regulations set out rules about incurring and authorising expenditure and attention is drawn to them.

5.2 Effective procurement starts with a clear identification of the need for the goods, materials or services being obtained. Is it really necessary? Is there a budget? Can the need be met from existing resources?

5.3 Major projects are likely to involve the spending of large amounts of money and the use of several different suppliers. For example, the construction of new houses is likely to involve architects, engineers, quantity surveyors etc. Projects such as these will have been under consideration for some time and should be included in annual budgets. Smaller purchases too may be specifically mentioned in the Association's budgets although smaller needs may be included in overall budget categories without being specifically highlighted.

5.4 To be clear, no expenditure is exempt from the procedures set out in this policy and procedure. All contracts or orders must follow the procedures including more unusual services such as insurance and insurance broking services, banking services, internal and external audit, energy contracts, training services, office supplies, etc. etc.

5.5 Expenditure should be included in the Association's approved budget but the fact that it is included and specifically mentioned does not give automatic approval to spend. Each instance of expenditure whether large or small and whether or not mentioned in the budget will be subject to separate approval in accordance with the principles set out in these procedures.

5.6 With the exception of Work Orders (WO) every instance of expenditure whether large or small is to be initiated by one person and approved by a second who has received delegated authority to do this or the Committee. There are procedures to deal with the post authorisation of small amounts or those which are needed in emergencies but the basic principle that expenditure is always authorised by a second person or the Committee will be maintained at all times.

5.7 Work Orders may only be raised by those with delegated authority to do so. Because there is no mechanism for them to be authorised by a second member of staff, the authorisation for the expenditure will rest with the receipt of the invoice. Each invoice will be checked by one member of staff and authorised by a second – both having been granted delegated authority to do this. Invoices are to be matched to orders and delivery notes. It is particularly important that the second check is carried out carefully and critically to ensure that the expenditure is proper.

5.8 The Association will aim to carry out the following checks:

- 25% pre-check on Work Orders
- 25% post check on Works Orders
- 10% audit of selected Works Orders/invoices
- A survey of customers on work and satisfaction levels.

The results of the checks and the customer surveys will be reported to the Management Committee quarterly. The percentage figures quoted above are stretching and it is accepted that depending on other work commitments and the

number of errors being found during the checks, the percentages may not be reached or necessary on every occasion.

5.9 Only those staff with the delegated authority to do so will incur expenditure commitment or authorise a payment. No payments will be made unless the payment has been checked and signed off by those with the appropriate authority.

5.10 The Management Committee approve budgets prior to the beginning of the financial year and staff have delegated authority to spend within these budgets subject to the Standing Orders and the current Scheme of Delegated Authority.

5.11 Any non-emergency expenditure up to £5,000 in total outwith set budgetary limits may be approved by the CEO who shall report such matters for retrospective approval to the Management Committee.

5.12 There are three levels of procedures involved in authorising expenditure:

- Taking on the commitment to spend
- Certification that the expenditure is arithmetically correct
- Approving the invoice after goods or services received.

The last two are covered within the Financial Procedures.

5.13 The role of the authoriser or second signatory needs to be clearly understood. Firstly, he or she must have delegated authority from the Management Committee to approve and authorise to the value of the voucher. Secondly, in signing or initialling the voucher, the person (or the Management Committee) is making a statement to the effect that they are entirely happy that the goods and services specified are being ordered for the legitimate use of the Association. Also they are certifying that the amount of money being committed is correct. With regard to invoices, the initials or signature is acting as an instruction to the staff in the Finance Team that the money should be paid but it also is approving the goods or services which have been bought and the value to be paid.

5.14 The authoriser/second signatory has a heavy responsibility to ensure that they are entirely happy the expenditure is needed, justified and has followed the proper processes. It is their responsibility to ensure that they have made appropriate checks and enquiries to be fully satisfied.

5.15 Each member of staff who is able to authorise vouchers will supply a sample signature and set of initials on a sheet which will be held by the Finance Team in a loose leaf folder. A format is attached as Appendix 1. The sheets must be updated as staff changes occur.

6 General Guidance on the Purchasing and Procurement Process

6.1 Entering into a contract with a supplier commits the Association to spend money. It is therefore essential that commitments are made with the full knowledge of the Finance Team and where appropriate the Management Committee. Under no circumstances should a commitment be made where there is no provision in the budget for the money to be made available.

6.2 The first stage in the process is for the need to be identified and to be certain that it cannot be met from either internal resources or external suppliers already in place. Some suppliers will be working to annual or other rolling contracts but these will need to be re-tendered at appropriate intervals.

6.3 If it is decided that the need can only be met by obtaining the services of an external supplier the process to select and appoint a contractor depends on the expected value of the of the contract and the nature of what is being supplied. In all cases, an appropriate specification and/or description of the services is to be drawn up.

6.4 In general, a contractor/supplier who is to be selected to carry out work for the Association should, if appropriate for the services they will be supplying, be able to demonstrate some or all of the following:

- Technical knowledge and skills for the task
- Compliance with Health and Safety Management
- Compliance with Equality legislation
- Adequate resources
- Previous experience and references
- Financial viability
- Adequate insurances (which shall be checked annually on renewal)
- Environmental policy (see para above concerning The Environmental Information (Scotland) Regulations 2004)
- Payment of 'The Living Wage' (see 6.5 below)

6.5 The Association pays its staff the 'Living Wage', or a greater amount, under the Scottish Living Wage Accreditation scheme which is an initiative from the Poverty Alliance in partnership with the Living Wage Foundation. The 'Living Wage' is different to the 'National Minimum Wage' and is a higher rate. Both are set annually but whilst the National Minimum Wage is statutory and set by government, the Living Wage is voluntary and is set independently. Accredited organisations are required to ask their contractors to implement the Living Wage. Ideally contractors should be willing to become accredited under the terms of the scheme but if they are unwilling to do this, they are to be required to undertake to pay the Living Wage or a greater amount to all of their staff and told that they may be required to provide evidence that they do so. If a contractor employed by the Association, or being considered for employment is not paying the Living Wage to its employees, the fact must be reported during the tendering and/or appointment process. Further information on the Living Wage in Scotland is available from The Poverty Alliance at 162 Buchanan Street, Glasgow G1 2LL; telephone 0141 353 0440. There is also a website: www.scottishlivingwage.org

6.6 A strategic priority of the Association is "to foster an attractive, successful and thriving community". We want our community to benefit from our activities. We will use our procurement processes to achieve a social return on our investment wherever possible; for example by using "community benefit clauses" in tender documents and by including appropriate social enterprises when seeking suppliers and tenders.

6.7 For larger contracts the requirement to demonstrate the above attributes will be part of the formal tendering process. In other cases, the initiating member of staff will satisfy himself/herself that the contractor can demonstrate that they have the skills/attributes as is appropriate for the services they are to provide e.g. there would be no need to carry out such detailed checks on, say, an office stationary supplier but if in doubt, the extent of any checks should be agreed with a member of the management team. A record of the checks carried out on potential contractors/suppliers should be kept.

6.8 The several procedures below are initiated depending on the estimated value of the work. If the actual price quoted by the contractor is greater than the monetary limits below, the work will either be re-tendered or approval sought from the Management Committee to accept the higher cost. Work must not be divided into smaller parcels to bring them into a lower value category.

6.9 Normally, where several contractors have provided quotations or tenders, the lowest should be accepted (unless other qualities are being compared). However, it is acknowledged that on some occasions this may not be appropriate e.g. where the contractor/supplier has a knowledge of the Association that is important in carrying out their duties; where a contractor has clearly under priced a tender and will not change it. In such cases, the responsible officer must set out a strong case for not accepting the lowest tender to obtain approval for its acceptance from the Management Committee.

6.10 Some work will be required in emergency situations where there is no time to follow the approved procedures. When such circumstances arise, the appropriate instructions shall be raised as soon as possible afterwards. In the unlikely event that the normal process would have required the submission of more than one tender, the requirement is waived but authorisation **must** be obtained by the next level of authorisation with retrospective approval being given by the Management Committee at its next meeting.

Conditions of Contract

6.11 Offers by contractors are usually based on their own conditions of contract and if they are accepted without qualification, this might not be to the advantage of the Association. Care should be taken to ensure that the conditions of contract which will apply are clearly understood and that the ramifications of any qualifications proposed by contractors are also clearly understood. This might require obtaining a specialist professional view.

6.12 For large building/engineering type projects, the Association will take professional advice on the form of contract to be used. There are a range of model form conditions of contract which are in common use. In particular, the Joint Contracts Tribunal (JCT) publishes model contracts for building that are in common use. The Institution of Civil Engineers (ICE) also published a suite of model contracts – the NEC series. The advantage of using model forms is that because they are in common use, their intricacies are clearly understood by contractors and employers

alike – as well as by professional advisers. If used, care should be taken if it is decided to make changes to them as changes may have unexpected consequences.

Information about the JCT conditions may be found on:

<http://www.jctltd.co.uk/category/contract-families>

NEC contracts may be found on the ICE website:

www.ice.org.uk/disciplines-and-resources

6.13 For smaller contracts and orders, reference should be made to the Association's standard conditions of contract which can be found as Appendix 2.

Purchases with a value less than £500

Maintenance

6.14 There are two categories of maintenance: planned and reactive.

6.15 The Technical Team compiles a list of approved contractors for carrying out a range of normal day to day work for both planned and reactive maintenance. This list is compiled by a tender process carried out every three years. See Section 9 below. This work will be ordered using the Work Order (WO) system. This is a computerised system. Each WO is given a unique number and the instruction is emailed to the contractor concerned. There is no facility for the WOs to be separately authorised/approved and so the invoice which is received for the work done must be carefully scrutinised by the member of staff authorising payment. (See also paras 5.13, 5.14.)

Other

6.16 For all other purchases up to a value of £500, at least one quotation is obtained. (A 'quotation' is a relatively simple document setting out price, delivery and details of the goods or services to be supplied.) This may be in writing or may be verbal. A Purchase Order (PO) is to be raised. The member of staff raising the order must ensure that the relevant budget has been approved and that it includes an estimated value of the work to be done or the goods/services to be supplied. Each PO must be authorised by a member of staff with appropriate delegated authority who will ensure that it has been properly completed including the anticipated value of the order. POs must be used in strict numerical sequence. Once authorised, the PO is passed to the Finance Team to be logged on to the PO register.

6.17 If there is no provision in the budget for the expenditure, the PO must be authorised by the Management Committee after which it will be dealt with as normal. See paras 5.6 and 6.10 for placing Orders in emergency situations.

Purchases with a value between £500 and £2,000

6.18 A single estimate from a suitably qualified contractor will be sufficient. Where a contractor is already working for the Association on a maintenance contract with a Schedule of Rates, if suitable rates already exist, they will be used to prepare an estimate.

6.19 The order will be placed using either a WO if for maintenance work or by PO if another work category is involved.

Purchases with a value between £2,000 and £15,000

6.20 Purchases with a value anticipated to be between £2,000 and £15,000 will require the issue of a specification and the return of three estimates from contractors. Enquiries may be issued by email but each contractor will be required to acknowledge receipt of the email and to provide their estimate in hard copy i.e. by sealed letter. Tenderers should be asked to note on the envelope that it is an estimate. Tenders should not be opened until the due date for their return has passed.

6.21 The requirement for three estimates will not apply to works being carried out by contractors on the approved list of maintenance contractors as they should have already been selected by a tendering process.

6.22 Contractors will be sent a letter informing them of their success or otherwise within three working days of the estimates being opened.

Purchases above £15,000

6.23 Purchases above £15,000 will follow the full tender route. See Section 8.

7. Risk

7.1 Procurement of goods and services creates risk for the Association. As examples, contractors involved in building/maintenance work could create risks by:

- Not being financially viable
- Not having adequate resources to fulfil their contract
- Employing staff who are not adequately experienced/qualified
- Employing inadequate Health & Safety, Equality etc. policies
- Causing damage to Association property
- Causing injury to Association staff and/or tenants

7.2 This list is not exhaustive.

7.3 Risk assessments must be carried out before a contractor is selected for approval. The Association's Risk Management policy sets out full guidance as to how this is to be done and it should be consulted if necessary.

7.4 One basic principle of the management of risk is to pass as much of the risk as possible to another party. In the case of procurement, as much risk as possible should be passed to the contractor via the terms of the contract. As an example, if a maintenance contractor damages a house or injures a tenant, the contractor should be liable for the consequences of his/her actions. As contractors may not have the financial resources to meet liabilities, they will be required to have adequate insurances. These will include Third Party Liability insurance and Employer's Liability insurance. As these are normally renewed annually, the Association staff member responsible will check that they have adequate insurance at all times by requiring the contractor to submit copies of up to date insurance certificates each year.

7.5 Staff should be aware that if a contractor causes damage or injury to a tenant or other third party and does not have insurance nor is able to meet costs from their own resources, the tenant or other party might raise a claim against the Association. Similarly, if an employee of a contractor is injured or killed, they or their next of kin might claim against the Association if the contractor does not hold Employer's Liability insurance although this is a legal obligation on all employers. (In addition to Employer's Liability insurance, only motor vehicle insurance is also a legal requirement.)

7.6 The Association should have its own insurances to deal with claims made against it by contractors or any other third party. As part of the managing of contractual risk, the Association's insurances should also be checked to make sure that they provide the right level of cover.

8. Tender Process

General

8.1 The whole process of obtaining tenders and appointing contractors must be fair, reasonable and transparent. Notes and records should be kept at all stages of the process. Contractors who ask for reasons as to why they have been unsuccessful at any stage of the process will be informed although this is subject to confidentiality needs e.g. competitors' submitted prices. Bear in mind that as a registered charity and the recipient of public money the Association is subject to more intensive scrutiny than private companies with the risk of loss of reputation or more severe sanctions from the Office of the Scottish Charities Regulator.

Preparing and Issuing tenders

8.2 In some cases, tendering may be carried out by one of the Association's external advisers. This is acceptable provided that they carry out the process strictly in accordance with the Association's policies and procedures. Where this happens, the

contractors will be required to return their tenders to the Association's office for opening and not to the adviser.

8.3 For each tender, a senior officer (SO) will be appointed to be responsible for ensuring that the tendering process will be carried out in accordance with these procedures.

8.4 The first step in the process is to select those contractors/suppliers who will be invited to tender. This may be done by advertising and/or by contacting contractors/suppliers who are known to the Association and have given good quality at a reasonable price. The Public Contracts Scotland website has a mechanism for advertising which should be used. See para 2.10. For a contractor, tendering can be a costly and time wasting process if they are unsuccessful so the numbers involved should be as few as reasonable. No more than 10 should be issued with invitations to express an interest in tendering with between three and six actually being invited to submit a tender. The aim should be to be in receipt of three fully compliant tenders by the end of the process. In exceptional circumstances two properly submitted tenders are acceptable but the reason for this should be explained; instructions regarding single tenders are set out below. See paras 8.24 to 8.27.

8.5 Prior to contractors being asked to express an interest in tendering, an assessment scheme will be drawn up. This will form the basis of selection by a panel which will comprise the SO, at least one member of the Management Committee and a member of the Finance Team. If considered necessary, a representative of the external advisers may be present too. The panel will draw up a list of between three and six contractors who will be issued with the tender documents. This list is to be approved by the Management Committee before tenders are issued.

8.6 Contractors who are not being included in the tendering process will be informed quickly at this stage.

8.7 Having selected the contractors who are to be invited to tender, they should be sent a pack containing relevant information.

- A letter of invitation (See Appendix 3).
- Instructions regarding the tendering procedure (See Appendix 4).
- Tender return label (See Appendix 5).
- Full description of the work to be carried out or the service to be supplied
- Full specification
- Pricing document (if appropriate)
- Conditions of Contract (See Appendix 2).
- Relevant timescales
- The name and title of the supervising officer
- Arrangements for prior inspection of the site or works, if required

- Form of Tender (See Appendix 6).
- Conditions of payment (if not included with Conditions of Contract).

8.8 Should the tender documents have to be amended once issued, all contractors preparing tenders must be informed. Similarly, if any contractor raises a query about the work or the process then all contractors preparing tenders must be informed of the query and the response given.

8.9 For some work, the tenderers might benefit from a site visit. If this is offered, it is to be offered all those expected to tender. If it is requested by one contractor then attendance at any visit should be offered to all contractors.

8.10 Tenders will be issued with the expectation that the successful contractor will be the one which submits the lowest price. However, for some, the tenders will be assessed on more than price but other qualities necessary to carry out the tasks. For example, relevant experience, the qualifications of the staff involved, etc. If a tender is to be assessed using factors other than price, the scoring regime must be designed before the tenders are issued to ensure that the relevant information is included in the tenders submitted.

8.11 The instructions should state that tenders are to be received by a specific time and date in a sealed envelope or package bearing a label provided with the tender pack. Staff who receive mail and/or work in the reception should be told to look out for envelopes/packages with the tender return label and to ensure that they are not opened in error.

8.12 Tenders which are late or whose packaging is damaged to such an extent that the contents can be seen will be rejected and returned unopened to the tenderer. Tenderers should be given at least two working weeks to prepare and submit their tenders unless there is a particular urgency in having them submitted earlier. The reasons for reducing the time below two weeks should be included in the report submitted to the Management Committee after the tenders have been assessed and a contractor chosen. Under normal circumstances for larger projects the tendering period should be decided based on the complexity of the project. If a contractor requests that the tendering period be extended, this may be agreed in which case all tenderers will be given the extra time too and the tender receipt date duly changed. However, if the tender is being issued under the rules set out under EU legislation, timescales are defined and must be adhered to. See Section 2.

Receipt of tenders

8.13 When tenders are received they will be passed to the Finance Team who will date and time stamp the package. Staff on the Reception Desk and those who handle incoming mail should be warned that tenders are likely to be received. The Tender Receipt Sheet will be completed and stored with the unopened tenders in the office safe. If they are too bulky to be held in the safe, a suitable locked drawer will

be used. The only members of staff with access to the tenders at this stage will be those from the Finance Team.

8.14 If the tendering has been initiated for work for the Finance Team, a member of staff from another Team will be made responsible for the receipt and storing of the unopened tenders in a locked drawer to which members of the Finance Team do not have access.

8.15 The Tender Record Book will note details of tenders which have been received late or if the packaging has been damaged or if they have not complied with the tendering instructions in any other way. They will be set to one side and returned to the tenderer unopened.

Tender Opening

8.16 The SO will be responsible for making the arrangements to open the tenders. There will be a panel who will formally open the tenders and make a record of the opening. Tenders will be opened as soon as possible after the tender receipt date and time has passed.

8.17 The panel will consist of at least two members of the Management Committee, the SO and the member of the Finance Team (or other) who has been responsible for the safekeeping of the unopened tenders. Others may be present if it is thought desirable, including a representative of an external adviser.

8.18 The SO will arrange suitable accommodation and for the unopened tenders to be brought to the opening panel.

8.19 Before the opening is started, the SO will ask if any member the panel has a conflict of interest or if there is any reason why they should not be involved in the process. If there is no reason to delay, the opening will be carried out and the results recorded by the SO in the Tender Record Book (TRB). This will be a bound notebook with pre-numbered pages, size at least A4 with the required information as set out in Appendix 7 recorded in it by the SO. In particular, the quoted price for each tender is to be recorded in the TRB. Once the opening is complete, the two members of the Management Committee present, the SO and the other member of staff will all sign the sheet as a record that the opening has been carried out properly. If there are any irregularities, the panel should ensure that they are noted in the TRB for future review and action.

8.20 Once completed, the TRB will be given to the Finance Team for storing and the tenders given to the member of staff initiating the process for them to review. All the information contained in the tenders is to be considered to be confidential.

Tender Assessment

8.21 Generally, the tender quoting the lowest price should be accepted but it is vital that the tenders are all properly assessed. The assessment should include:

- A check on the arithmetic to ensure that it is correct.
- An assessment as to whether or not the tenders comply with the requirements set out in the specification.
- A check on the financial viability of the tenderer where large value contracts are involved.
- The taking up of references if appropriate.
- An assessment of any changes the tenderer is making to the Conditions of Contract.
- Insurances.

8.22 If any significant errors or changes are discovered which affect the outcome of the exercise, the relevant tenderer is to be asked to clarify and if necessary agree to any changes needed. A contractor who has made a genuine mistake in pricing resulting in a significantly lower price which is accepted, may cut corners to reduce costs resulting in poor quality work and/or numerous claims to try to make up the difference. Accepting a low tender which has resulted in a price which is clearly the result of an error by the contractor is not necessarily in the best interest of the Association. If it is considered that such a tender should be accepted, the approval of the Chief Executive **must** be obtained in writing with a final decision being made by the Management Committee.

8.23 Appendix 8 considers the need to tender for ongoing services on a regular but not necessarily annual basis. As examples, such services might include (but not be limited to) external audit, internal audit, legal, banking, insurance broking, etc. It is possible that a re-tender might result in the incumbent supplier being slightly disadvantaged to a competitor. In such circumstances, it may be to the Association's benefit to re-appoint the incumbent supplier. In such cases, the approval of the Chief Executive **must** be obtained in writing with final authorisation being given by the Management Committee.

Negotiated and/or Single Tenders

8.24 There are occasions when it may not be possible to find enough contractors to submit the number of tenders required above. This may result in a contract being entered into on the basis of a single tender or one that has been negotiated with the contractor.

8.25 Negotiating a tender with a contractor is acceptable but it must be done in an absolutely transparent way. Any negotiations must be clearly and fully recorded and no matter what the value of the contract, it **must** be authorised by the Management Committee before being accepted.

8.26 Similarly, where a tender process has been carried out and only a single valid tender received, it must be carefully assessed to decide if a re-tendering should be carried out or if it is in the Association's interest to accept it. If it is decided to accept it, no matter what the value of the contract, it **must** be authorised by the Management Committee before being accepted.

8.27 It may be that the value of the lowest tender exceeds the expected and budgeted amount. If so there are the following options:

- The tendering exercise is repeated.
- The tendering exercise is repeated with a reduced specification.
- Negotiations are undertaken with the lowest tenderer to try to reduce the price to within the amount budgeted/forecast.
- The forecast is increased to cover the increased value.

Whatever is decided, the chosen option must receive authorisation from the Management Committee before any action is taken.

Tender acceptance

8.28 Once approval has been given by the authorising authority, all tenderers will be notified in writing whether or not they have been successful. This should be done without delay. Usually tenders are only valid for a limited period of time and contractors may wish to reprice if the time limit has been passed.

8.29 Final placing of the contract will be following a two week 'standstill period' after the unsuccessful contractors have been told of the Association's intentions. This is to give time for any complaints or concerns to be raised by any of the unsuccessful contractors.

9. Maintenance – List of Approved Contractors

9.1 A key aspect of the Association's operations is the way that it responds to the maintenance needs of its tenants. To meet the expectations of its tenants and to provide good quality service, it needs to have arrangements in place with contractors of many different trades and service who will react within defined timescales in the event of certain occurrences. The Association operates a list of approved contractors who are appointed every three years and work to pre-defined schedules of rates.

9.2 The list of Approved Contractors is approved by the Management Committee.

9.3 Over the course of the three years between the formal selection procedure taking place, contractors will be removed from the approved list and new ones added. Procedures for adding contractors to the list between formal selection dates are included below.

9.4 There are seven categories of work for which lists of approved contractors are held:

- Plastering
- Electrical
- Painting
- Plumbing
- Roofing & Building
- Joiner work
- Gas engineering

9.5 Each list will undergo a re-tendering process every three years although in order to reduce the work required, they do not all need not be re-tendered at the same time or the same year.

9.6 The general tendering process will be as specified in Section 8 but it will be necessary to ensure that the contractors selected are able to deal with the tight time requirements specified for reactive maintenance. This may mean getting assurances that they have suitable staff resources to cope. It will also be important to ensure that they have suitable third party insurance. If a tenant should make a claim for damages arising from the actions of a contractor and the contractor is not insured then the Association could become liable.

9.7 Over the three years that the lists are current, contractors will be removed from the lists for one reason or another and have to be replaced. When this is necessary, the Technical Team will carry out a selection process similar to that used to compile the main lists. Tenderers will be asked to provide a list of rates which will be received as if they were tenders i.e. held unopened and secure until an opening meeting can be held. Where only one tender is being considered, it will be approved in accordance with the requirements for negotiated and single tenders. See Section 8. The contractor selected will not be added to the list until approval has been obtained from the Management Committee.

9.8 Contractors appointed to the approved lists will agree to meet the Association's standards of service.

9.9 Where a specialist contractor is required for a limited period or a specific task the Technical Officer with the approval of two senior members of staff can appoint a contractor and seek permission retrospectively from the Management Committee.

10. Document filing, storage and retention

10.1 To ensure transparency, all documents (Including copies of emails) concerning the appointment of a contractor/supplier are to be retained and in accordance with our policies on document filing, storage and retention.

10.2 Where the full tender process has been carried out, each separate tender exercise will have a separate tendering file or files of ***all*** the documentation in connection with the selection of the successful contractor. This includes documentation regarding unsuccessful tenderers too. These files will be retained for a period of at least six years following the end of the contract concerned.

10.3 These requirements will also apply when a contractor is appointed via a single and/or negotiated tender.

10.4 Where contractors are being appointed using quotations rather than tenders, the quotations of all those quoting will be kept in the contract file. The file will be retained for at least two years.

SAMPLE SIGNATURE SHEET

Name: _____

Job Title: _____

Signature	Initials

Provide your usual signature and initials in the boxes above.

Date:

**WELLHOUSE HOUSING ASSOCIATION STANDARD TERMS AND CONDITIONS
OF PURCHASE FOR GOODS, SERVICES AND WORKS.**

1 Definitions

1.1 Within these Conditions of Contract, the terms and expressions used shall have the following meanings:

Contract means the agreement between the Association and the Supplier.

Group has the meaning given in S.474(1) Companies Act 2006.

Intellectual Property Rights means all intellectual property rights including without limitation patents, trademarks, designs, design rights, copyright, inventions, trade secrets, and all applications for protection of any of the same.

Legislation means all laws, statutory instruments, regulations in force from time to time in the United Kingdom.

Order means Wellhouse's written instructions for the provision of Goods, Works and/or Services issued by Wellhouse incorporating these Conditions.

Services means any services, duties and responsibilities to be provided, performed and observed by the Supplier pursuant to the Contract.

Supplier means the person, firm or company to whom the Purchase Order is addressed.

Wellhouse means Wellhouse Housing Association.

Works means any works, duties and responsibilities to be provided, performed and observed by the Supplier pursuant to the Contract.

2 Application of Terms and Conditions

2.1 Subject to any variation, these terms and conditions shall govern the Contract to the entire exclusion of all other terms, conditions or representations.

2.2 The acceptance of an Order or a Contract and the supply of the goods, services or works specified by the Supplier shall be deemed to be conclusive evidence of the acceptance of these terms and conditions by the Supplier.

2.3 Any variation to the Contract shall have no effect unless expressly agreed in writing and signed by an authorised representative of Wellhouse.

3 Supplier Responsibilities

3.1 The quantity, type and price of the Goods, Works and/or Services plus any particular requirements in relation to the Order shall be as set out in the Order.

3.2 The Supplier warrants that the Goods, Works and/or Services will correspond to the type, quantities, descriptions and particular requirements (if any) contained in the Order and shall be fit for the purpose of their intended use and to the extent that such description is incomplete or insufficient the Supplier warrants that the Goods or Works will comply with all applicable European standards.

3.3 Prior to delivery, the Supplier shall provide Wellhouse full information in respect of any substances to be supplied which are subject to the Control of Substances Hazardous to Health Regulations 2002 and any similar laws and/or regulations. If such information has not been supplied in accordance with this Clause,

Wellhouse shall be under no obligation to make any payment to the Supplier in relation to the Goods or Works.

4 Deliveries

- 4.1 Unless otherwise agreed in writing, time shall be of the essence for the supply.
- 4.2 If there is, or if there is likely to be, a delay in completing the Order, the Supplier shall immediately after becoming aware of the fact give written notice to Wellhouse giving the reasons for an actual or anticipated delay and details of any alternative delivery dates proposed and subject to the receipt of such notice Wellhouse may grant in writing a reasonable extension of the period of time stated in the relevant Order if and to the extent that in the reasonable opinion of Wellhouse the delay is solely due to a cause out with the Supplier's control.
- 4.3 Delivery notes must be supplied with every delivery against an Order. Every delivery note and all correspondence must quote Wellhouse's Order number and must provide the full contact name, address and telephone number of the Supplier.

5 Acceptance of Goods, Works and Services

- 5.1 An authorised representative of Wellhouse must sign for the Goods and/or Services provided. However, such a signature does not constitute Wellhouse's acceptance of the quality or quantity of the Goods delivered and/or Services provided even where the delivery provided to Wellhouse states that such a signature confirms the quantity and condition of the Goods. Acknowledgement of delivery will not limit or exclude the liability of the Supplier under the Order.
- 5.2 Wellhouse reserves the right to reject inferior or defective Goods, Works and Services. Wellhouse will notify the Supplier the reasons for rejection and will require the Supplier to remove and rectify the defective Goods, Works and/or Services at the Supplier's expense. Rejected Goods, Works and/or Services will remain the property of the Supplier and Wellhouse will be under no obligation to pay for them.
- 5.3 Unless otherwise stated, the Supplier is responsible for providing all equipment and labour necessary for the processing, delivery, off-loading, and loading of the Goods and/or Works.

6 Services

- 6.1 Where an Order includes or is for the Supply of Services the Supplier will provide or execute the Service using the same level of skill, care and diligence as would be expected of a properly qualified supplier experienced in carrying out services of the nature, scope, type and value to the Services. Services shall be completed strictly in compliance with the Contract.

7 Risk

- 7.1 The Goods shall remain at the risk of the Supplier until delivery to Wellhouse is complete. Ownership of and title in the Goods shall pass to Wellhouse on the date of delivery or payment.

8 Payment

- 8.1 Wellhouse will not make any payment to the Supplier unless the Supplier is in receipt of an official Order.
- 8.2 Wellhouse is registered for VAT and requires tax invoices from all VAT registered Suppliers showing the VAT rate, the amount of VAT charged and the Supplier's VAT registration number.
- 8.3 Subject to full compliance of the Order by the Supplier, Wellhouse will make payment for the Order within 28 days of receipt from the Supplier of an invoice correct in all material particulars.
- 8.4 Payment by Wellhouse shall be without prejudice to any claims or rights which Wellhouse may have against the Supplier and shall not constitute any admission by Wellhouse as to the performance of the Supplier of its obligations hereunder.

9 Liability and Indemnity

- 9.1 The Supplier shall keep Wellhouse indemnified in full against all direct, indirect or consequential liabilities, loss, damages, injury, costs, and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by Wellhouse as a result of or in connection with:
- I. defective workmanship, quality and materials; and
 - II. an infringement or alleged infringement of and Intellectual Property Rights caused by the use, manufacture or supply of the Goods, Works and/or Services; and
 - III. any claim made against Wellhouse in respect of any liability, loss, damage, injury, cost or expense sustained by Wellhouse's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods, Works and/or Services as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the terms of the Order by the Supplier.
- 9.2 The Supplier:
- I. accepts liability for death and personal injury howsoever resulting from the Supplier's negligence; and
 - II. accepts liability for damage to property resulting from the Supplier's negligence where such negligence has arisen or arises in connection with the provision of the Goods, Works and/or Services or in connection with any other activities undertaken by the Supplier pursuant to or for any purpose related to the Order; and
 - III. hereby agrees to indemnify Wellhouse against all and any liability, loss, damage, costs and expenses whatsoever nature incurred or suffered by Wellhouse or by any third party whether arising from any disputes, contractual, tortious or other claims or proceedings which seek to recover loss and damage incurred by reason of any such death, personal injury or damage to property in relation to the provision of the Goods, Works and/or Services.
- 9.3 The Supplier undertakes to:
- I. maintain, at its own cost, appropriate public liability insurance.

- II. maintain at its own cost, Employer's Liability insurance for the amount of £5,000,000 (five million pounds) in respect of any one occurrence arising out of one event.
- III. maintain at its own cost. Professional indemnity/product liability insurance for the amount of £1,000,000 (one million pounds) in respect of any one occurrence or series of occurrences arising out of one event to ensure that its activities under the Order are insured and remain insured under an annual professional indemnity policy.

9.4 If required by Wellhouse, the Supplier shall submit evidence in the form of insurance certificates that insurance has been purchased and is currently in force.

9.5 The provisions of this Condition 9 shall survive the termination of the Order for any reason.

10 Termination

10.1 Wellhouse shall have the right at any time by giving notice in writing to the Supplier (where the Supplier is a company) to terminate the Order with immediate effect in the event of:

- I. an order is made for its winding up; or
- II. a receiver (including any administrative receiver) or similar person is appointed in respect of, or an encumbrance takes possession of, the whole or any part of any of its property, assets or undertaking or any step is taken by any person to enforce any rights under or pursuant to any security, interest or encumbrance of any kind over any of its property, assets or undertaking; or
- III. an administrator is appointed; or
- IV. it is unable to pay its debts for the purposes of the Insolvency Act 1986 as amended, or if it becomes insolvent under any applicable legislation.

10.2 Wellhouse shall have the right at any time by giving notice in writing to the Supplier (where the Supplier is a partnership or an individual) to terminate the Order with immediate effect in the event of:

- I. its dissolution; or
- II. when any of the following apply to any of the partners:
 - a) He/she is the subject of a bankruptcy order; or
 - b) He/she has a bankruptcy petition filed against him; or
 - c) He/she enters into an individual voluntary arrangement or an arrangement with his creditors in satisfaction of his debts; or
 - d) He/she becomes bankrupt under any applicable legislation.

10.3 Without prejudice to Wellhouse's other rights and remedies, Wellhouse may terminate the Contract with immediate effect by notice if the Supplier commits any breach of the Contract and fails to remedy such breach within 14 days of being given written notice by Wellhouse to do so.

10.4 Termination of the Contract shall not prejudice or affect any right of remedy which has accrued or shall accrue thereafter to Wellhouse, and provision which is expressed to survive the Contract shall remain in full force and effect.

10.5 In the event of Wellhouse terminating the appointment of the Supplier, Wellhouse shall be under no obligation to make further or additional payments to the Supplier and/or Wellhouse shall not be liable to the Supplier for any loss of profits, loss of contracts or other costs, losses and/or expenses arising out of or in connection with such termination.

11 Assignment and Sub-letting

11.1 The Supplier shall not assign, transfer, sub-contract or in any other manner make over to any third party the benefit of the Order (or any part thereof) without the prior written consent of Wellhouse.

12 Health and Safety

12.1 The Supplier must comply with all Legislation including Health and Safety legislation. In addition, the Supplier must, when on Wellhouse's premises or carrying out work for or on behalf of Wellhouse, comply with Wellhouse's health and safety policies and procedures. Wellhouse's policies and procedures are available for inspection on request.

13 Law and Jurisdiction

13.1 This Contract will shall be governed by the Law of Scotland.

14 Defects

14.1 The Supplier will make good by replacement any defects in the Goods or Works and shall bear any reasonable expenses incurred by Wellhouse as a consequence of such defects, including where necessary, the costs of opening up or dismantling of other works or assemblies to permit such replacement and of re-assembly and making good after replacement and testing to Wellhouse's reasonable satisfaction subject to Wellhouse taking reasonable steps to mitigate the amount and cost of such works. Failure by the Supplier to make good any such defect (save for such minor defects as do not affect the intended use of the Goods or Works) shall entitle Wellhouse to refuse to acknowledge delivery/completion or, if delivery has been acknowledged, to invalidate such acknowledgement.

INVITATION TO TENDER

Date

Tender For:

Dear Sirs,

Invitation to Tender

Wellhouse Housing Association invites offers for

Your tender must be submitted in compliance with the following documents which accompany this invitation to tender:-

1. Instructions to Tenderers.
2. Form of Tender.
3. Specification.
4. Contract Documents.
5. Tender Return Label

It is the responsibility of tenderers to ensure that submitted tenders are received at the Association's office by on Tenders received after this time shall not be considered and will be returned to the tenderer unopened.

Please acknowledge receipt of this Invitation to Tender.

Yours faithfully,

NAME and TITLE

INSTRUCTIONS TO TENDERERS

Wellhouse Housing Association

Tender for:

INSTRUCTIONS TO TENDERERS

Form of Tender

Tenders must be submitted with the enclosed Form of Tender, and must be supplemented by all other information and authorities requested in these Tender Documents.

Tenderers should note that all attachments and appendices to the Form of Tender shall upon an award of contract be deemed to be part of the contract.

Submission of Tenders

Tenders must not arrive later than

Envelopes/packages containing tenders shall bear the address label supplied with the tender pack and properly annotated.

The tender shall be valid for acceptance for a period of ?? days from the date specified for receipt of tenders.

Preparation and Award

The cost of preparing and presenting the tender shall be met in its entirety by the tenderer.

The Association reserves the right to award the contract for goods and services as detailed in this invitation as it sees fit and may reject any or all tenders received with no obligation to disclose its reasons.

Currency and VAT

The currency of the tender and contract shall be UK Pounds and costings shall be prepared on that basis.

All sums are to be exclusive of VAT.

Proposed Sub-contractors

Details of proposed sub-contractors must be supplied.

Change in status of Tenderer

In the event that after the date of this invitation to tender and prior to the award of any contract, the status or identity of circumstances of the tenderer changes in any material way, including but not limited to merger, amalgamation, take-over or any other reorganisation, change of name, receivership, liquidation, bankruptcy, winding up or similar action, such change will be notified to the Association immediately. Failure to do so may result in the tenderer being disqualified or in the event of any award of contract shall be deemed to be in breach of contract.

Tender Return Label



FORM OF TENDER

Wellhouse Housing Association
the hub
49 Wellhouse Crescent
GLASGOW
G33 4LA

Dear Sirs,

Tender for:

Having carefully examined the invitation to tender dated and the associated documents:

1. We confirm that we have fully satisfied ourselves as to the nature of the requirements of the Association.
2. We hereby offer to supply the goods and related services in accordance with your invitation to tender and its enclosures as follows:
 - a) Instructions to tenderers
 - b) Form of Tender
 - c) Specification
3. We agree to abide by our tender for a period of ?? days from the defined date of the receipt of tenders and it shall be binding upon us before expiration of that period.
4. We understand that you are not bound to accept the lowest or any tender received, nor assign a reason for the rejection of any tender. We accept that any costs incurred in the preparation of this tender will be borne by us.
5. We confirm that the person whose signature is appended to this tender is a duly authorised signatory of this company and has full and formal legal authority to sign this tender on behalf of our company.

Yours faithfully,

**WELLHOUSE HOUSING ASSOCIATION
TENDER OPENING RECORD**

Tender for.....

Tender reference.....

Time\Date.....

Tenders:

Name of Tenderer	Value of tender as opened (unchecked)	Comment

Declaration of Opening Panel Members:

I declare that I have no conflict of interest or interest in this tender. I certify that the tenders/offers have been opened in Accordance with the Association's Procurement Policy and that the information given above is correct.

Name	Designation	Signature

Other comments (including the names of others present):

FREQUENCY OF TENDERING FOR ROUTINE SERVICES

There are certain services which the Association will use on an ongoing basis and will obtain from outside providers. These include external audit services, banking, energy etc.

By their nature, these services do not lend themselves to being tendered on an annual basis but they should nonetheless be tendered at appropriate intervals.

Services and intervals are noted on the table below.

Service	Frequency of tendering (years)
External Audit	5
Internal Audit	5
Banking	5
Insurance Broking	5
Approved Maintenance contractors	3
Accountancy	2
Legal	5
Energy	5
Office supplies	2