

## Procurement Policy

### Policy for the Procurement of Goods, Services and Works (2025-2028)

**Status: Approved**

<b>Policy Lead:</b>	Director of Assets & Sustainability
<b>Owned By:</b>	Director of Assets & Sustainability
<b>Date Approved:</b>	August 2025
<b>Approved By:</b>	BHA Board
<b>Review Date:</b>	August 2028
<b>Regulatory / Legislative Considerations/ References</b>	<ul style="list-style-type: none"> <li>• UK procurement thresholds - Public Contracts (Scotland) Regulations 2015 at 1 January 2024</li> <li>• Scottish Procurement Thresholds – Procurement Reform (Scotland) Act (2014) at 1 January 2024</li> <li>• English Procurement Act 2023</li> <li>• The Procurement Scotland Regulations (2016)</li> <li>• Procurement Reform (Scotland) Act 2014</li> <li>• The Public Contracts (Scotland) Regulations 2015</li> <li>• The Utilities Contracts (Scotland) Regulations 2016</li> </ul>
<b>Other Documents to be read in conjunction with this policy:</b>	<ul style="list-style-type: none"> <li>• Standing Orders</li> <li>• Financial Regulations</li> <li>• Scheme of Delegation</li> <li>• Entitlements, Payments, and Benefits Policy</li> <li>• Procurement Strategy</li> </ul>

<b>Policy Title:</b>	<b>Procurement Policy</b>
<b>Purpose / Aim of policy:</b>	To set out the policy framework within which BHA will conduct procurement to be able to demonstrate value for money and comply with the regulatory requirements.
<b>Scope of Policy:</b>	This policy relates to all procurement/ purchasing of goods and services undertaken by BHA
<b>Definitions:</b>	As set out in the Policy
<b>Specific detail related to each strand in the scope:</b>	As per the Policy
<b>Approval Source:</b>	BHA Board
<b>Equality Impact Assessment:</b>	Not required
<b>Glossary of Terms</b>	As set out in the Policy
<b>Risk Implications:</b>	Procurement is a regulated area and failure to comply with the regulations could result in legal claims and significant costs.

## **1. INTRODUCTION**

- 1.1 This Procurement Policy sets out the policy framework which Berwickshire Housing Association Limited (referred to in this Policy as “BHA”) will follow when procuring contracts for the supply of services, the supply of goods and material and / or the execution of works.
- 1.2 All procurements undertaken by BHA must have regard to the terms of the Procurement Strategy and the values, objectives and goals set out in the Procurement Strategy.
- 1.3 This Policy must be interpreted in accordance with fundamental general principles of equal treatment, non-discrimination, transparency, and proportionality.
- 1.4 This Policy is subject to the over-riding provisions of the United Kingdom and / or Scottish legislation. It is also subject to any UK Government or Scottish Government guidance on public procurement that may be issued from time to time.
- 1.5 All BHA employees shall comply with the terms of this Policy. Failure by any employee to comply with the terms of this Policy may result in disciplinary action.
- 1.6 This Policy may be suspended either in whole or in part by a decision of the governing body in respect of the proposed award of any contract upon the joint recommendation of the Chief Executive and the Executive Team if they have delegated responsibility for the policy and the Chair, provided there are special circumstances justifying the suspension.
- 1.7 Any query regarding the application or interpretation of this Policy should be made in the first instance to the Executive Director Business Support.
- 1.8 BHA will embrace a continuous improvement culture within our procurement operating model.
- 1.9 Berwickshire Housing Association procurement will take cognisance of the minimum requirements as set out in Section 15(5) of the Procurement Reform (Scotland) Act 2014, which requires public bodies to reflect their approach to sustainability, community benefits, fair working practices (including promoting payment of the living wage), promoting compliance with the Health and Safety at Work Act 1974, procurement of fairly and ethically traded goods and services and the improvement of health and wellbeing within our communities.

## **2. AIMS AND OBJECTIVES**

- 2.1 The objectives of this Policy are to:
  - Ensure that BHA maximises value for money when procuring contracts;
  - Ensure that BHA complies with all legal and regulatory requirements governing procurement and related best procurement practice when procuring contracts;

- Ensure that procurement accords with the requirements of BHA's policy in respect of payments and benefits;
  - Maximise opportunities to jointly procure services on a collaborative basis with colleagues in other local registered social landlords and related organisations;
  - Ensure that expectations of tenants, customers, colleagues, and other key stakeholders are met and continually improved; and
  - Ensure that BHA makes best use of the commissioning process and that there is sufficient flexibility to ensure expenditure can be increased and decreased as necessary within the financial year.
- 2.2 This policy should be read in conjunction with the following BHA policies and procedures:
- Standing Orders
  - Financial Regulations
  - Scheme of Delegation
  - Entitlements, Payments, and Benefits Policy
  - Procurement Strategy
- 2.3 In the event of any conflict or inconsistency between the terms of this Policy and any provisions in any of the above policies relating to public procurement of contracts, this Policy shall take precedence.

### **3. OVERVIEW OF LEGISLATION**

- 3.1 Current thresholds can be found here:

[Procurement threshold values from 1 January 2024 to 31 December 2025 - Procurement threshold values - gov.scot](#)

The Procurement Scotland Regulations (2016) :  
<https://www.legislation.gov.uk/ssi/2016/145/contents/made>

Procurement Reform (Scotland) Act 2014 :  
<https://www.legislation.gov.uk/asp/2014/12/contents>

The Public Contracts (Scotland) Regulations 2015 :  
<https://www.legislation.gov.uk/ssi/2015/446/contents/made>

The Utilities Contracts (Scotland) Regulations 2016 :  
<https://www.legislation.gov.uk/ssi/2016/49/contents/made>

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

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- 3.4 BHA is subject to a two-tier procurement regime for regulated and unregulated procurements. The threshold whereby procurement activity becomes regulated is **£50k** for service contracts and **£2m** for works (both excluding VAT (Procurement Reform (Scotland) Act 2014). Above this threshold works and services are required to be advertised.
- 3.5 In addition to the above, the Public Contracts (Scotland) Regulations 2015, the Concession Contracts Regulations (Scotland) 2016, and the Utilities Contracts Regulations (Scotland) 2016 outline the following thresholds, however the thresholds above are the key when designing a procurement route.

	Supply, Services and Design Contracts	Works Contracts
With vat	£214,904	£5,372,609
Without vat (20%)	£179,087	£4,477,174

- 3.6 Where the procurement activity is below the thresholds for regulated activity (£50k and £2m) then the terms of this policy should drive the approach to procurement approach. where the Regulations will apply to contracts with a value which meets or exceeds the relevant UK thresholds (£213,477 for supplies or services and £5,336,937 for works including VAT) and the Act will apply to contracts with a value below such EU thresholds but with a value which is equal to or greater than the thresholds set out in the Act (£50,000 for supplies or services and £2,000,000 for works).
- 3.7 The UK procurement thresholds values change every 2 years, and the table below lists updated contract value thresholds that Contracting Authorities (Housing Associations) must follow for all procurement procedures.

**Please note that while the threshold values are current and within the policy review period, please check with the above links on thresholds before proceeding with any regulated contract.**

- UK procurement thresholds - Public Contracts (Scotland) Regulations 2015 at 1 January 2024
- Scottish Procurement Thresholds – Procurement Reform (Scotland) Act (2014) at 1 January 2024
- English Procurement Act 2023

## 4. NOTICE REQUIREMENTS

4.1 The flowchart at *Appendix 1* has been provided with this Policy to assist in determining which statutory requirements apply to a particular procurement.

4.2 There are six procurement routes that can be chosen, these apply to procurements under the Regulations. There are no prescribed procurement procedures or timescales under the Act, but BHA may, if appropriate, use any one of the procurement routes. The six procurement routes are summarised using the Scottish Government procurement journey website (<https://www.procurementjourney.scot/>).

For full explanations and operation, please refer to the Regulations and procurement journey. Brief descriptions are provided below and further details on the Open and Restricted procedures are also provided in *Appendix 2*.

4.2.1 **The Open Procedure:** This is where you send all bidders (who responded to the advertised opportunity) the full Invitation to Tender documents. This means there is no separate selection stage. The open procedure can be used freely in any circumstances and for any type of contract and Framework Agreement. Any interested bidder may submit a tender. However, in some cases it can be beneficial to choose a procedure where the number of the bidders can be reduced at the selection stage based on their capability and capacity, especially if the organisation does not have enough resources (such as time) to conduct a full open procedure.

4.2.2 **Restricted Procedure:** The Restricted Procedure should be used for procurement exercises where market analysis has shown many bidders could meet your needs and may bid. The Restricted Procedure is a two-stage process. The first stage is a selection process, where the bidders' capability, capacity and experience to perform the contract is assessed i.e. the SPD (Scotland) is used to shortlist bidders. This means the number of bidders can be reduced at the selection stage. The second stage is when the Invitation to Tender is issued and the bids are assessed to determine the most economically advantageous tender, the basis of contract award. Only the shortlisted bidders are then invited to submit a tender.

4.2.3 **Competitive Procedure with Negotiation:** This procedure lets you clarify bids with bidders after their submission of fully formed initial tenders. You should use this procedure if you are unable to define how to meet your needs technically and/or you cannot specify the legal or financial requirements of your contract. This procedure should not be used for 'off-the-shelf' services or goods, where many suppliers can deliver the service or product. The use of Competitive Procedure with Negotiation must be justified, and the reasons recorded. You can also use the Competitive Procedure with Negotiation where all the submissions received for an Open or Restricted Procedure that you have conducted are classed as either irregular or unacceptable.

- 4.2.4 Scottish Government guidance examples are: procuring services or goods that require adaptation or design inputs, in cases of complex purchases, such as sophisticated products, intellectual services or major information and communication technology tools.
- 4.2.5 **Competitive Dialogue:** You cannot use this procedure when your requirements can be provided by many different market operators, or it is an off-the-shelf service or supply. The use of Competitive Dialogue must always be justified, although there is no need to include that justification in your Contract Notice. Unlike the Competitive Procedure with Negotiation, here the specification requirements concentrate on your organisation's needs without having to detail the nature, characteristics, or solutions to be offered.
- 4.2.6 Scottish Government guidance examples are: highly complex and risky projects; procuring innovative projects where you are unable to specify your requirements (e.g. your technical, financial or legal solutions) and therefore bidders may have a major role in defining the solution; you cannot assess without in-depth dialogue on what the market can offer; and where Open or Restricted Procedures may not deliver the expected outcomes.
- 4.2.7 **Negotiated Procedure without Prior Publication:** These exceptions should be limited to cases where publishing a call for competition e.g. Contract Notice, is not possible. Organisations relying on this procedure should provide reasons why there are no reasonable alternatives or substitutes.
- 4.2.8 Scottish Government guidance examples are: no bids or no suitable bids are received; no requests to participate or no suitable requests to participate to a previous Open or Restricted tender exercises; where it is necessary for reasons of extreme urgency and these events have been caused by unforeseeable events and not caused by your Organisation; or where the supplies or services can only be provided by a particular supplier (such as the purchase of a unique work of art or artistic performance).
- 4.2.9 **Innovation Partnership:** An Innovation Partnership must only be used where there is a need for the development of an innovative product or service and the subsequent purchase of these cannot be met by solutions already available on the market. The use of this procedure must be justified. The Innovation Partnership Procedure aims to solve an existing problem i.e., organisations not being able to purchase directly from the developer without further competition. This was because the original research and development contract was awarded without competition.

## 5. STATUTORY DUTIES

- 5.1 There are a number of specific statutory duties under the Act which will apply to the procurement of any contracts which are subject to the terms of the Act or the Regulations.
- 5.2 The principal statutory duties under the Act are as follows:
  - 5.2.1 **The Sustainable Procurement Duty:** BHA must consider, before starting a procurement competition, how, by the way in which it conducts the procurement process, it might improve the economic, social, and environmental well-being of its local area, how it might facilitate the involvement of small and medium enterprises, third sector bodies and supported businesses, and to consider how it can promote innovation. Having considered and identified how these aims might be achieved, the Act requires BHA to conduct its procurements in a way designed to secure the improvements identified.
  - 5.2.2 **Annual Procurement Strategy:** The Act requires BHA to prepare and publish an annual procurement strategy for each year in which it considers its total expenditure on regulated procurements will exceed £5,000,000. If it is obliged to prepare an annual procurement strategy, BHA must also prepare an annual procurement report.
  - 5.2.3 **Contracts Register:** BHA must keep and maintain a contract register which must include details of all contracts entered into by BHA following a regulated procurement under the Act.
  - 5.2.4 **Community Benefit requirements:** The Act requires that, for any regulated procurement with an estimated value equal to or greater than £4,000,000 (excluding VAT), BHA must consider whether to impose community benefit requirements as part of the contract delivery before carrying out the procurement. BHA must include in the contract notice relative to the procurement a summary of the community benefit requirements it intends to impose or, if it is not going to include any community benefit requirements, the reasons for not including any such requirements.

## 6. AWARDING CONTRACTS UNDER THRESHOLD

- 6.1 Contracts with an estimated value below the thresholds set out in the Regulations and the Act do not require to be procured in accordance with the terms of the Regulations or the Act but must be procured in accordance with the requirements of this section of this Policy.
- 6.2 Contracts with an estimated value below the prescribed thresholds do not need to be advertised in the UK or publicly procured in terms of the Regulations, but contracting authorities must ensure a degree of advertising and follow a procedure leading to the award of the contract which is sufficient to enable open competition and comply with general principles of equal treatment, non- discrimination, transparency, and proportionality.



Legislation	Estimated Value of Contract	Procedure to be Followed
Neither the Act nor the Regulations apply	Between £3k and £10k £5,000 works, goods, and services / supplies	Minimum of <b>TWO quotations</b> to be obtained. Lowest priced contractor/supplier to be appointed
	Between £10,000 and £25,000 works, goods, and services / supplies	Issue requests for a minimum of <b>THREE bidders</b> . Appointment on either price or Most Economically Advantageous Tender (MEAT).
	Between £25,000 and £150,000 works and Between £25,000 and £50,000 goods, and services / supplies	Minimum of <b>THREE competitive quotations</b> via Quick Quote (QQ) using standard documentation. Appointment on either price or MEAT. See Route 1 of the Procurement Journey.
	Between £150,000 and £2,000,000 works (above £50k for goods and services)	Best practice tender process to be followed via Scottish Contract Notice on Public Contracts Scotland (PCS). Contractor evaluated as being the MEAT to be appointed. See Route 2 of the Procurement Journey.
The Act applies	Between £2,000,000 and £5,336,937 works  Between £50,000 and £213,477 goods and services / supplies	Formal Scottish tender process to be followed via Scottish Regulated Contract Notice on PCS. Contractor/supplier evaluated as being the MEAT to be appointed. See Route 2 of the Procurement Journey.
The Act and the Regulations apply	Over £5,336,937 works  Over £213,477 goods and services / supplies	Formal Scottish tender process to be followed via Scottish Regulated Contract Notice on PCS. Contractor/supplier evaluated as being the MEAT to be appointed. UK tender process for competitive tenders via EU Regulated Contract Notice on PCS full tendering procedure. MEAT contractor/supplier appointed. See Route 3 of the Procurement Journey.

## **7. FRAMEWORK AGREEMENTS**

- 7.1 Rather than conducting a stand-alone procurement procedure in respect of a particular requirement, BHA may consider procurement through a framework agreement. Any framework issued under the English Procurement Act 2023 (PA23), from 24 February 2025, must consider the PA23 implications and more importantly must be available for use in Scotland under Scots Law and Scottish Building Contracts Committee (SBCC) Standard Form Contracts.

### **What is a Framework Agreement?**

- 7.2 A framework agreement is a pre procured contract, open to 3<sup>rd</sup> parties to utilise, which has already set out the core contract conditions. Each framework will set out how 3<sup>rd</sup> parties can utilise the procurement activity (call offs) with options being direct award or mini competition. A framework can only last for 4 years 'umbrella agreement' that sets out the terms (particularly relating to price, quality and quantity) under which individual contracts ("call-offs") can be made throughout the period of the agreement (which can be up to 5 years MTC).
- 7.3 Framework agreements can be set up for one contracting authority to use or can be set up for a number of contracting authorities to use.
- 7.4 BHA may set up its own framework agreements or it could explore whether there is an existing framework agreement put in place by another contracting authority is advantageous to use.
- 7.5 Pre-procured frameworks which BHA may be able to access include frameworks established by organisations such as Crown Commercial Service, Scotland Excel, Procurement for Housing, Consortium Procurement, and the Scottish and UK Governments.
- 7.6 Framework agreements are either concluded with a single supplier or with multiple suppliers and are generally split into lots and by region.

### **Contract Award under a Framework Agreement**

- 7.7 There are two ways in which call-offs might be made:
- 7.7.1 Where the terms laid out in the framework agreement are detailed enough for BHA to be able to identify the best supplier for that requirement, then BHA can award the contract without re-opening competition (Direct Award). The terms laid out in the framework should be reviewed as some stipulate using the first ranked supplier.
- 7.7.2 If the terms laid out in the framework agreement are not specific enough for BHA to be able to identify which supplier could offer them best value for money for that requirement, a further mini competition would be held between all the suppliers on the framework agreement who can meet the need. Please note that ALL suppliers awarded on to a particular lot have to be invited to bid for the mini competition.

### **Advantages of Framework Agreements**

- 7.8 If a framework agreement has been properly conducted, then there can be significant time and resource savings. There are also potential benefits of economies of scale and applying the terms and conditions already set out in the framework.

### **Disadvantages of Framework Agreements**

- 7.9 Framework agreements may be relatively unresponsive to change; there may be new suppliers and/or new solutions within the market that were not included when the framework agreement was initially set up.
- 7.10 Framework agreements tend to apply a "one size fits all" approach, which may make it difficult for BHA to satisfy their own procurement objectives.

This policy will be subject to review every three years or sooner to comply with regulatory or legislative changes.