



PROCUREMENT POLICY	
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OSPREY GROUP PROCUREMENT POLICY POLICY STATEMENT

Osprey Housing and Osprey Housing Moray (referred to as the Group) believe that effective and efficient management of the procurement process is vital to the success of maintaining good quality services for all our tenants and provide value for money.

We embrace quality property management and this is encompassed in our Core Values:

✓ **AMBITION**

empowering through innovation and challenge

✓ **(E)QUALITY**

doing the best for individuals and communities in a fair and equal way

✓ **RESPECT & PROFESSIONALISM**

towards each other, the people we work with; the people we serve and our environment

✓ **ACHIEVEMENT**

delivering outcomes that matter and make a real difference – now and in the future

Osprey Group Procurement Policy

POLICY OUTLINE

This policy and procedure document outlines the procedures which Osprey Housing Group and its subsidiaries (together referred to in this Policy as "The Group") will follow when procuring goods, services and works. Contractors, Consultants, Suppliers, and other Economic Operators are all referred to within this policy as "Contractors". This policy describes how Contractors will be selected and awarded contracts by The Group.

Related policies/documents

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I OVERVIEW OF POLICY AND PROCUREMENT PRINCIPLES

1. Corporate and Strategic Links

All procurements undertaken by The Osprey Group must have regard to the terms of the Procurement Strategy and the values, objectives and goals set out in the Procurement Strategy.

2. Objectives and principles of this Policy

The objectives of this Policy are to:

- Ensure that The Osprey Group maximises value for money when procuring contracts;
- Ensure that The Osprey Group 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 The Osprey Group's policy in respect of payments and benefits;
- Maximise opportunities to jointly procure services on a collaborative basis with other local registered social landlords and related organisations;
- Ensure that the expectations of tenants, customers, staff, colleagues and other key stakeholders are met
- Ensure that The Osprey Group 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.

3. Conflicts and Declarations of Interest

In all written procurement/contractual documentation (including the approved provider list), it will be explicitly stated that any conflicts of interest (particularly those falling within the scope of the payments and benefits policy), must be declared in advance of a contractual relationship being established. Any implications relating to payments and benefits will be brought before the relevant Committee for determination.

In addition, if a relationship is created during the term of a contract that would fall within the scope of the payments and benefits policy, this will be highlighted to the relevant Director and reported to the next relevant Committee.

Any failure by a contractor to highlight a relationship falling within the scope of the payments and benefits policy may lead to their exclusion from a public procurement exercise. They, and any associated businesses, may be subsequently disqualified from competing for current and future contracts. Legal advice will be taken where this is considered appropriate.

Any failure by a member of staff to declare an interest or highlight a relationship falling within the scope of the payments and benefits policy will be dealt with through The Osprey Group's disciplinary procedures.

4. Canvassing, bribery and inappropriate behaviour

It should be noted that if at any time a contractor attempts to canvas, bribe or unduly influence a Member of Staff, Board Member or any other official or agent of The Group, then they, and any associated businesses, may be excluded from a public procurement exercise. Subsequently they may be subsequently disqualified from competing for current and future contracts. Legal advice will be taken where this is considered appropriate.

5. Pre-procurement

Prior to procurement of goods or services or works falling within the scope of this Policy, consideration shall be given to the following:

- Can the goods, services or works be provided in-house, is expertise and time available?
- Are alternative sources of goods, services, works readily available?
- Is there any special requirement for a particular contract to be undertaken impartially and independently?
- What are the expected benefits of seeking external provision?
- Is there a wish to test the market for cost and quality benefits?
- What are the risks from in-house vs. external provision?
- Can the project benefit from a collaborative approach?

The Osprey Group may also wish to undertake some form of pre-procurement market review or engage with suppliers in the particular relevant sector or market in order to better inform The Osprey Group's requirements.

Any pre-procurement market review exercise should be tailored to reflect the particular requirements of The Osprey Group and the market or sector in question but, by way of example, a pre-procurement market review may include:

- research to identify potential suppliers through peer group networking and benchmarking groups;
- review of information on procurement portals to identify similar work and interested suppliers;
- research with advisers and consultants to ensure the contract scope is properly defined and expressed; and
- informal approaches to potential suppliers to gain a fuller understanding of The Osprey Group's requirements and suppliers' capacity, capability and interest to meet such requirements.

6. Roles and Responsibilities

The Board is responsible for ensuring that The Osprey Group is compliant with legislative and regulatory requirements in respect of procurement, and that its policies and procedures ensure that this is the case. The Board will be responsible for approval of any authority delegated to staff in respect of procurement activity.

The Finance Committee is responsible for ensuring that The Osprey Group complies with its policy and procedure in this area, and from time to time be satisfied that the policy and procedure remains up to date and consistent with legislative and regulatory requirement.

Senior Management Team are responsible for application of the policy and procedure on a day to day basis and for ensuring that staff with a role in respect of procurement are briefed and aware of their responsibilities in the application of the policy and procedure.

Staff are responsible for ensuring that in procuring goods and services that they fully comply with this policy and procedures and that only those staff who have been trained in its application procure goods and services on behalf of The Group, and then only within the extent of any authority given by virtue of this policy and procedure.

All staff have a duty to bring to the immediate attention of The Osprey Group any act or omission (by any party to a procurement process) that would constitute non compliance with this policy and procedure. Failure to do so without good reason will be dealt with under the terms of The Osprey Group's disciplinary policy.

Any queries regarding this Policy or any queries which arise during a procurement procedure should be addressed to the Executive Director or in their absence a member of the Senior Management Team.

II PROCUREMENT PROCEDURES

7. Overview of Relevant Legislation

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

The Osprey Group is subject to a two-tier procurement regime:

- The Regulations will apply to contracts with a value which meets or exceeds the relevant EU thresholds (£164,176 for goods or services and £4,104,394 for works)
- 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 goods or services and £2,000,000 for works).

Overview of Public Contracts (Scotland) Regulations 2015

The Regulations apply to the following types of contract:

- contracts for goods or services with an estimated value of £164,176 (excluding VAT) or more
- contracts for works with an estimated value of £4,104,394 (excluding VAT) or more
- contracts for certain health and social services with an estimated value of £589,148 (excluding VAT) or more

Such contracts must be advertised in the 'Official Journal of the European Union' (**OJEU**) and publicly procured in accordance with the one of the defined procedures set out in The Regulations. This will include a formal standstill period before award of the contract.

Contracts with an estimated value below the above prescribed thresholds do not need to be advertised in OJEU or publicly procured in terms of The Regulations but contracting authorities must, if the contract is of "cross border interest" (i.e. of interest to suppliers in other EU member states) 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 and transparency.

Certain categories of services are exempt from the full terms of The Regulations (for example, legal services). In addition, certain contracting arrangements are exempt from the terms of The Regulations and such arrangements do not need to be publicly procured.

Any procurement which is subject to the terms of The Regulations must comply with general principles of:

- **transparency** – contract procedures must be transparent and contract opportunities should generally be publicised
- **equal treatment and non-discrimination** – potential suppliers must be treated equally
- **proportionality** – procurement procedures and decisions must be proportionate
- **mutual recognition** – giving equal validity to qualifications and standards from other Member States, where appropriate

Overview of the Procurement Reform (Scotland) Act 2014

The Act applies to the following types of contract

- contracts for goods or services with an estimated value of £50,000 (excluding VAT) or more
- contracts for works with an estimated value of £2,000,000 (excluding VAT) or more

Such contracts must be advertised on the Public Contracts Scotland website and publicly procured in accordance with the terms of The Act, which imposes general obligations on contracting authorities to treat economic operators equally and without discrimination and to act in a transparent and proportionate manner.

Any procurement which is subject to the terms of The Act must comply with general principles of:

- **The sustainable procurement duty** – The Osprey Group 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 the authority's 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 The Osprey Group to conduct its procurements in a way designed to secure the improvements identified.
- **Procurement strategy** – The Act requires The Osprey Group 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 and if it is obliged to prepare an annual procurement strategy, to

also prepare an annual procurement report. The Osprey Group is also obliged to maintain a Contracts Register.

- **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), The Osprey Group must consider whether to impose community benefit requirements as part of the contract delivery, before carrying out the procurement. The Osprey Group 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.
- **Selection criteria** – The Act and related legislation sets out the criteria which can be used by The Osprey Group when selecting tenderers

Principles applicable under both The Regulations and The Act

Procurement exercises relative to contracts with an estimated value which meets or exceeds the applicable EU thresholds will need to take account of both The Regulations and The Act.

Requirements under The Regulations or The Act cannot be artificially split to avoid the application of The Act and/or The Regulations (e.g. a single requirement with a value of £50,000 cannot be the subject of two separate contracts of £25,000 each).

Where a proposed contract is “mixed”, e.g. if it contains both works and services, or services and supplies, it should be classified according to the main subject of the contract.

A flowchart and guidance note has been included at [Appendix 2](#) to this Policy to assist Group staff in determining which statutory requirements apply to a particular procurement.

8. Procurement procedures under The Regulations

The Regulations specify different procedures which suit different types of project. Each of these procedures is subject to certain minimum timescales. As noted in [Appendix 3](#).

In relation to all procedures under The Regulations:

- A specific tender notice must be placed in the supplement to the Official Journal of the European Union (OJEU), via Public Contracts Scotland and consideration given as to whether it would be appropriate to also advertise in a suitable professional/trade journal or the press;

- A representative of the respective Committee and a senior member of staff from the respective service will be present during the electronic 'opening' of all submitted tenders.
- Following the contract award decision, The Osprey Group 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 and the "characteristics and relative advantages" of the successful bidder's tender submission compared to their own tender submission.
- A mandatory "standstill" period of at least ten calendar days must be observed between informing tenderers of the outcome of the procedure and awarding the contract. If a challenge is raised within the standstill period, all correspondence must be issued to the Executive Director.
- The Asset Manager will publish a contract award notice in the OJEU, via the Public Contracts Scotland website.
- The Asset Manager will report the award of the contract to Board, this report will include an outline of the contract, details of any savings made, added value and community benefit.

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, although tenderers may be required to achieve a "pass" in relation to a number of "pass / fail" questions or achieve minimum scores in respect of certain questions in order for their tender to be fully evaluated by The Group.

Under the open procedure, The Osprey Group can ask tenderers to clarify aspects of their tenders following submission. However, material changes to the terms of tenders are not permitted and The Osprey Group may not negotiate with tenderers after submission of tender responses.

The open procedure is unlikely to be appropriate where there is any complexity in the evaluation process for practical reasons or where The Osprey Group anticipates a significant volume of responses and wishes to limit the number of tenderers invited to the tender stage of the process.

Restricted Procedure

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

The Osprey Group then issues a pre-qualification questionnaire (PQQ) to these interested parties and follows the pre-qualification stage process. Only those parties

which meet The Osprey Group's selection criteria (as set out in the PQQ) will be shortlisted 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).

As is the case under the open procedure, The Osprey Group can ask tenderers to clarify aspects of their tenders following submission. However, material changes to the terms of tenders are not permitted and The Osprey Group may not negotiate with tenderers after submission of tender responses.

When to use the restricted procedure:

- As there is a short-listing phase, it is likely to be more appropriate than the open procedure for procurements where there is likely to be a large amount of supplier interest.
- As contracting authorities are unable to negotiate with tenderers, it should only be used where The Osprey Group is able to adequately specify its needs. For more complex procurements, The Osprey Group should either: consider using one of the more complex procurement procedures; or undertake a suitable market testing exercise to identify what solutions may be appropriate prior to issuing a contract notice.

Competitive dialogue procedure

The competitive dialogue procedure is suitable for more complex and/or high value procurements. Interested parties can submit an expression of interest in response to the contract notice. The Osprey Group may then carry out a short-listing exercise (using a PQQ) and only those meeting The Osprey Group's selection criteria will be invited to dialogue.

A minimum of three suppliers must be invited to dialogue (unless fewer candidates have met the selection criteria and these are sufficient to ensure genuine competition, that is, at least two).

The Osprey Group then enters into a dialogue with bidders to develop one or more suitable solutions to meet its needs. There is no set format that the dialogue must follow, it will usually consist of a series of meetings with each tenderer with each meeting focusing on different aspects of the procurement, for example: financial; technical; and legal. Whichever format is used, The Osprey Group should be careful to ensure that all tenderers are treated equally and are given the same opportunities to access relevant information.

During the course of the dialogue The Osprey Group is able to reduce the number of bidders provided that it confirms it intends to do so in the contract notice or invitation to participate in the dialogue. If The Osprey Group does choose to down

select, it should ensure that at least two tenderers remain in the dialogue until it concludes.

When an appropriate solution(s) has been identified, The Osprey Group will conclude the dialogue phase and invite final tenders. The Osprey Group may require all final tenders to be based on one solution identified during the course of the dialogue or allow each tenderer to submit a bespoke final tender.

Following receipt of final tenders The Osprey Group will evaluate the tenders and select the best tender based on pre-specified award criteria.

Under The Regulations, contracting authorities may carry out further negotiations with the highest-scoring bidder, following an evaluation of the final tenders “to confirm financial commitments or other terms contained in the tender in order to finalise the terms of the contract” as long as this does not materially change the essential aspects of the procurement or risk distorting competition or causing discrimination.

When to use the competitive dialogue procedure:

- The needs of The Osprey Group cannot be met without adaptation of readily available solutions.
- The contract includes design or innovative solutions.
- The contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them.
- The technical specifications cannot be established with sufficient precision by the contracting authority with reference to a standard or common technical specification or technical reference.
- When only irregular/unacceptable tenders are submitted in response to a procurement run using the open or restricted procedure.

Competitive with negotiation procedure

The competitive negotiation procedure is suitable for more complex and/or high value procurements. This procedure is a “hybrid” procedure because, as with the restricted procedure, it allows The Osprey Group to award a contract on the basis of an initial tender. However, like the competitive dialogue procedure, it also enables The Osprey Group to negotiate with tenderers who submitted an initial tender, and any subsequent tenders, until it decides to conclude those negotiations. There is no limit to the number of tender stages.

Final tenders are submitted and evaluated and the contract is awarded. Unlike the competitive dialogue procedure, The Regulations do not provide for any clarification or negotiation of the final tenders or the winning tender.

When to use the competitive with negotiation procedure:

- The needs of The Osprey Group cannot be met without adaptation of readily available solutions.
- The contract includes design or innovative solutions.
- The contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity or the legal and financial makeup or because of risks attaching to them.
- The technical specifications cannot be established with sufficient precision by The Osprey Group with reference to a standard or common technical specification or technical reference.
- When only irregular/unacceptable tenders are submitted in response to a procurement run using the open or restricted procedure and The Osprey Group needs to have the option to negotiate with tenderers.

9. Procurement procedures under The Act

There are no specific prescribed procurement procedures or timescales under The Act. However, The Osprey Group may use any one of the procurement procedures of The Regulations as described above for procuring contracts which are subject to The Act.

The Contract Notice, Tender Documentation and Contract Documentation must be published on the [Public Contracts Scotland website](#).

Documentation – The Procuring Officer will prepare a robust tender specification/project brief to be incorporated into the Invitation to Tender (ITT).

[The template contract](#) must be issued with the ITT, incorporating the Specification and a prepared contract notice. All tender documentation should be approved by the appropriate departmental Manager. The contract documentation shall be such as to give all tenderers sufficient and equal opportunity to submit relevant information and to enable the tenders to be evaluated on an equitable basis. Details and conditions for the services shall be set out accurately and concisely in order to avoid ambiguity and later disputes over interpretation of what is required under the contract. All tenders should contain a certificate of bona fide tendering ([Appendix 1](#) to this Policy). Depending on the nature of the service, you may also wish to include interviews and/or site visits as part of the tender process and this would be included as a requirement in the tender documents.

[Sustainable Procurement Duty](#) to be complied with and [Community Benefits](#) considered (see Section 7 above).

Tenderers should be advised to submit any clarifications through the Public Contracts Scotland website and these clarifications and answers will be available to

all bidders to ensure transparency and anonymity. Tenderers will be advised to only submit their tender submissions through the Public Contracts Scotland website. A contract award notice must be published on the Public Contracts Scotland website

Receipt of Tenders – When the deadline is reached a representative of the Board and a senior member of staff from the respective service will be present during the electronic “opening” of all submitted tenders. If a tender is received after the deadline or there has been a failure to follow set procedures, this may render a tender invalid. However, where the breach of tender procedures is thought to be incidental, the Service Manager may accept the tender provided.

The tenders will be formally recorded in the appropriate tender book and all those who responded contacted and advised of the outcome. At no time will sensitive details of one tender be given to another contractor.

Evaluation – A written record of tender scoring should be kept and should have the detail of points awarded to each tender and should be signed by the member of staff that is scoring the tender bid. The evaluation panel should be appropriate in light of the type of contract to be awarded and may include the following as necessary: staff / Board members / tenants / consultants / others with specialist knowledge of the service being tendered. All persons appointed to the Evaluation Panel shall be required to declare any interest or connection with any individual, firm or company intending to tender for the provision of the required services. An appropriately qualified employee or consultant will make checks to ensure that the contractors are all measuring the same elements. Any discrepancies will be checked, and if necessary, the relevant service manager or Consultant will contact the contractor to ascertain if they are prepared to conform to all requirements without an amendment to the tender value (arithmetical corrections accepted). Where the contractor is not prepared to conform, their tender will be rejected.

Contract Award – Following a recommendation by the relevant Service Manager or Consultant, the tender will be accepted and signed on behalf of The Osprey Group by the Service Director. The relevant Corporate Services Assistant/Finance Officer will retain all paperwork for audit purposes.

10. General procurement principles – all procedures

There are a range of general principles which apply and which must be considered by The Osprey Group in relation to procurement of all contracts, regardless of the estimated value of that contract and/or whether the contract needs to be procured in accordance with the terms of The Regulations or The Act.

The general principles are as follows:

- No tender shall be accepted where there is insufficient or no budgetary allowance for the work or services to be carried out or the goods to be provided.

- The relevant officer will satisfy him/herself as to the financial viability of the contractor to complete major contracts prior to official acceptance. This will be done in conjunction with senior colleagues in Finance.
- Any selection criteria or award criteria which are used must be clearly specified in the tender documents
 - “**selection criteria**” are criteria that relate to the **tenderer** and are used to assess the tenderer's ability to perform the contract in question, as well as its financial standing and eligibility
 - “**award criteria**” are criteria that relate to The Osprey Group’s **tender requirements** and are used to identify the tender that is the most economically advantageous;
- Tenders will not normally be accepted purely based on the basis of the lowest priced tender. Quality, cost and ability to deliver an excellent customer focused product/service will all be a high priority for The Group.
- Where there is a genuine concern that the Contractor tendering for the work will have to employ a number of additional members of staff who require training, this will be discussed prior to the tender award. At no time will a Contractor be authorised to subcontract part of the tender work without the prior approval of The Group. Any intended joint working/sub contracting by a contractor should be clearly stated during the tender process. All contractors will be fully responsible as prime contractor for the work carried out on their behalf by a sub contractor.
- All Group staff must comply with the Bribery Act 2010.
- All documentation must be retained on the appropriate file for a period of 3 years after conclusion of the tender exercise.
- An appropriate written contract must be used and this must be concluded with the correct legal entity (which must be correctly designed in the contract).
- Any complaint about, or challenge to, a Group contract award procedure or any situation which could be reasonably expected to lead to a complaint or challenge must be notified to The Executive Director immediately on The Osprey Group staff member becoming aware of it.
- A description of all contracts entered into (and where possible before completion) will be provided to the Executive Director who will keep a central contracts register and will also be noted at the next relevant Board meeting.
- Following the issue of contract specification documents, potential tenderers will have the opportunity to raise questions in writing, arrange meetings or undertake visits to clarify any points relating to the service to be provided. All contacts from potential tenderers will be fully recorded and logged, including, for example, minutes of meetings. Any new information passed on to a

tenderer as a result of any meeting or communication shall be conveyed to all other tenderers.

- At no time shall details of prices or other sensitive information submitted by a contractor be disclosed to any other contractor.

11. Procurement of contracts which are under the thresholds set out in The Act – The Osprey Group’s internal thresholds

Contracts with an estimated value below the thresholds set out in The Act do not require to be procured in accordance with the terms of The Act or The Regulations but must be procured in accordance with the requirements of this section of the Policy.

Estimated value of contract	Procedure to be followed
Up to £750.00	Work may be authorised within individual officer limits and contractor may be directly engaged without any form of public procurement exercise
£751 up to £5,000	Minimum of two competitive quotations to be invited. Lowest priced contractor to be appointed.
£5,001 up to £10,000	Minimum of three competitive quotations to be invited using standardised documentation and processes (for example, a specification and return date to be sent to all contractors being asked to provide costs). Lowest priced contractor to be appointed.
£10,001 up to £50,000 (goods and services) / £2 million (works)	Formal tender process to be followed with at least three competitive tenders invited. Tenders to be opened by Service Manager (Grade 1 or above) or another senior member of staff and another member of Corporate Services staff. To be entered in the appropriate tender book. Contractor evaluated as being the most economically advantageous to be appointed.

The Osprey Group maintains a list of approved providers. In respect of all lower-value contracts, The Osprey Group must award contracts only to those contractors who are on the list of approved providers. The only exception will be for contractors that will be used on a one-off basis for low value (below £750.00) and low risk work or services, or where specialist services are required. Admission to the list will be instigated both where an organisation makes a speculative approach to The Group,

and it is prepared to meet the criteria for admission set out below, or where they have met the criteria prior to appointment through the commissioning process.

Requirements for admission to the approved list will vary from time to time but are likely to include:

- That public, employer's and, where required, product liability insurance is in place to the value determined by The Group;
- Financial viability (references may be required from the contractor's principal financial backer(s) and/or latest annual accounts);
- Appropriate registration (for example Company Registration number, appropriate professional accreditations, memberships etc.);
- Policies that demonstrate a high level of customer and staff care (for example Health and Safety Policy and Equal Opportunities Policy/Statement); and
- Professional references (where The Osprey Group has no prior or recent dealings with the contractor, references may be required from three current customers).

Where there is any doubt as to either the financial viability of the contractor applying, or concerns re working practices, then further investigations may be undertaken by The Osprey Group prior to a contractual commitment being undertaken. In addition, restrictions may be placed on any contract award.

The Executive Director will approve the admission of all contractors falling within the scope of this policy to the approved providers' list and their subsequent removal or restrictions due to performance related issues.

As well as contracting with a contractor who is on The Osprey Group's approved providers list, it may be possible for The Osprey Group to draw down services/ goods/ works under a framework which has been established by a third party. Please see section 15 of this policy for further information about frameworks.

12. Contracts with an estimated value of £751 up to £5,000

Where two competitive quotations are being requested, a brief written description of the work required will be provided to contractors and a date given for response. The deadline will be the same for all contractors invited to quote and should allow for at least five working days to provide returns. The quotations should be returned in writing (email is an acceptable format) to the relevant officer and each later acknowledged with a decision on the outcome.

An appropriately qualified employee will make checks to ensure that the competitive quotations are measuring the same elements. Any discrepancies will be checked, and if necessary, revisions made.

In general terms, the cost of the necessary works should determine the successful contractor, however, it is expected that quality and ability to meet required deadlines would also be taken into account. Where there has been concern regarding a contractor performance in the recent past, and/or the quotations are similar, the decision rests with the officer requesting the quotations.

The quotations will be accepted and signed for on behalf of The Osprey Group by the relevant officer as determined by their level of authority as set out in the Schedule of Delegated Authority.

The relevant Corporate Services Assistant or Finance Officer will retain all records for audit purposes.

13. Contracts with an estimated value of £5,001 up to £10,000

Where three competitive quotations using standardised documentation are required, a more robust specification/project brief will be sent out to contractors with a deadline of no sooner than ten working days to respond. The quotations should be returned in writing (email is an acceptable format) to the relevant officer and each later acknowledged with a decision on the outcome.

An appropriately qualified employee will make checks to ensure that the competitive quotations are measuring the same elements. Any discrepancies will be checked, and if necessary, the employee in conjunction with a senior member of staff from the relevant service, will contact the contractor to ascertain if they are prepared to conform to all requirements without an amendment to the quotation value (arithmetical corrections accepted). Where the contractor is not prepared to conform, their quotation will be rejected.

The competitive quotation (the total cost over the contract term) will be accepted and signed on behalf of The Osprey Group by the relevant staff member and as determined by their level of authority as set out in the Schedule of Delegated Authority.

In general terms, the cost of the necessary service/goods should determine the successful contractor. However, where there has been concern regarding a contractor performance in the recent past, and/or the quotations are similar, the decision rests with the officer requesting the quotations in conjunction with the relevant Service Manager.

The relevant Corporate Services Assistant or Finance Officer will retain all paperwork for audit purposes.

14. Contracts with an estimated value of £10,001 up to £50,000 (goods and services) / £2 million (works)

Where a formal tender process is to be followed, a robust tender specification/project brief will be prepared. Where appropriate this will be done by the relevant officer involved but may be by a more senior member of staff or suitably qualified consultant, depending on the complexity of the project. Consideration should be given as to whether advertisement on Public Contracts Scotland ("PCS") is appropriate.

The deadline will be no sooner than fifteen working days after the contractor would be expected to receive the documentation (assuming postage by second class post). Any request to have the deadline extended will only be considered if made prior to two working days before the deadline. Where an extension is given, this will apply uniformly across all contractors invited to tender.

All tenders will be returned by 2.00pm on the deadline in a sealed envelope using stickers provided by The Osprey Group detailing:

- that the documentation is a tender
- the deadline (date and time)
- the contractor involved
- that the documentation should not be opened at reception

Tenders submitted by email and fax will not be considered except in exceptional circumstances (for example during long-term postal strikes or severe weather). Email submissions will be controlled to ensure confidentiality.

If a tender is received after the deadline or there has been a failure to follow set procedures, this may render a tender invalid. However, where the breach of tender procedures is thought to be incidental, the Service Manager may accept the tender provided.

The tenders will be formally recorded in the appropriate tender book and all those who responded contacted and advised of the decision.

An appropriately qualified employee or consultant will make checks to ensure that the contractors are all measuring the same elements. Any discrepancies will be checked, and if necessary, the relevant service manager or consultant will contact the contractor to ascertain if they are prepared to conform to all requirements without an amendment to the tender value (arithmetical corrections accepted). Where the contractor is not prepared to conform, their tender will be rejected.

The tender will be accepted and signed on behalf of The Osprey Group by the relevant Service Manager or the Director and in accordance with authority levels as set out in the Schedule of Delegated Authority.

The respective Corporate Services Assistant /Finance Officer will retain all records for audit purposes.

15. Framework Agreements

Rather than conducting a stand-alone procurement procedure in respect of a requirement of The Group, procurement through a framework agreement may be considered.

What is a framework agreement?

A framework agreement is an '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 (normally a maximum of 4 years).

The Osprey Group could set up its own framework agreements or it could explore whether there is a suitable existing framework agreement put in place by another contracting authority under which The Osprey Group is entitled to draw down the required goods, services or works (e.g. a framework set up by Scottish Procurement Alliance, Procurement For Housing or the Scottish Government).

Do framework agreements need to be advertised in OJEU?

If the value of all the potential call-offs under the framework agreement is estimated to exceed the EU thresholds, then the framework agreement should be advertised in the OJEU. However, the individual call-offs do not then need to be re-advertised. (Please note that under The Act, contract award notices do require to be published on Public Contracts Scotland in respect of call-off contracts with a value of more than £50,000 for goods or services or £2 million for works.)

How are call-offs awarded under a framework agreement?

If the framework agreement is awarded to one provider, then The Osprey Group can simply call-off the requirement from the successful supplier as and when it is needed. Where the framework is awarded to several suppliers, there are two ways in which call-offs might be made:

- Where the terms laid out in the framework agreement are detailed enough for the purchasing authority to be able to identify the best supplier for that particular requirement, then the authority can award the contract without re-opening competition; or
- If the terms laid out in the framework agreement are not specific enough for the purchasing authority to be able to identify which supplier could offer them best value for money for that particular requirement, a further mini-competition would be held between all the suppliers on the framework agreement who are capable of meeting the need.

Advantages of framework agreements

If framework agreement has been properly concluded further to an OJEU procedure, The Osprey Group is not required to follow the full OJEU procedure in respect of each requirement which is the subject of a call-off, thus reducing costs and timescales.

Disadvantages of framework agreements

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.

Framework agreements tend to apply a 'one size fits all' approach, which might make it difficult for contracting authorities to satisfy their own procurement objectives.

16. Exceptions to the requirement to publicly procure a contract

There are certain exceptional circumstances in which tenders are not required for the procurement of goods, services or works, including:

- Where the tender may only be awarded to a particular supplier for technical or artistic reasons or where a particular supplier has exclusive rights which mean they are the only supplier capable of meeting The Osprey Group's requirements
- Where The Osprey Group has already entered into a contract with a supplier and requires additional services or works to be supplied which were not included in the original contract but which, through unforeseen circumstances, have become necessary
- Where The Osprey Group wants a supplier with which it already has a contract to provide new works or services which are a repetition of works or services carried out under the original contract, and such new works or services were provided for in the original contract notice

The above exceptions may only be relied upon in limited circumstances and are subject to a range of specific conditions. You must obtain the approval of The Executive Director before relying on any such exception.

Single quotations shall be obtained, on the authority of the Chief Executive, for the supply of goods or services of a special character, for which it is not possible to obtain competitive quotations. Or where specific circumstances make a competitive quotation situation impractical, for example, provision of specialist advice which is not commonly available. It may also be the case that procurement is required at

short notice and where the lack of service or advice would affect realisation of a business opportunity.

In all instances The Osprey Group will work to achieve best value. The reasons for such an event must be documented. Such a decision does not negate the requirement for a service specification document and formal contract with the service provider.

17. Emergency situations

Where the emergency management (Business Continuity) plan is in operation or there is a health and safety risk identified (for example there is damage to office space and/or systems, which may affect business continuity), the timescales given above may be relaxed to meet business requirements. For example quotations/tenders may be requested sooner. In addition, authorisation may be given for senior members of staff to ensure they have authorisation limits that meet the requirements of the situation. These will be explained and detailed at the beginning of the emergency management plan being implemented or at the time a health and safety issue has been identified.

18. Renewals, extensions and changes to existing contracts

A proposed extension, renewal or amendment to an existing contract may be considered equivalent to the award of a new contract if it constitutes a material change. If a change to an existing contract has the effect of creating a new contract, The Osprey Group may need to undertake a new competitive tender process in accordance with The Regulations or The Act.

Material changes to a contract are those which demonstrate the intention of the parties to renegotiate the essential terms of the original contract. Amendments to a contract may be regarded as "material" where they:

- Introduce conditions which, had they been part of the initial award procedure would have allowed for the admission of tenders other than those initially admitted, or would have allowed for the acceptance of a tender other than the one initially accepted. In other words, the new conditions would have potentially changed the participants and/or the outcome of the original procurement process
- Extend the scope of the contract considerably to encompass services not initially covered
- Change the economic balance in favour of the contractor in a manner not provided for in the terms of the original contract. In other words, they make change which improve the contractor's position or alter the balance of risk under the contract in favour of the contractor – examples include extensions or price increases.

The Regulations restrict The Osprey Group's ability to modify publicly procured contracts.

19. Joint Procurement

Where there is appropriate benefit, opportunities to jointly procure services with other registered social landlords and organisations should be explored. In all cases where new contracts are due to be negotiated, The Osprey Group will ensure that joint procurement opportunities are explored prior to advancing internal procedures. Where it jointly procures services, The Osprey Group will ensure that as far as reasonably practical it does not assume any liability for non payment or withdrawal from a joint contract by another party.

Partnership/Collaborative Working – decisions to enter into a partnership / collaborative agreement must be approved by the relevant Committee and they will be required to demonstrate that such arrangements demonstrate best value for The Osprey Group taking into account operational and strategic considerations.

Partnerships – Normally, the minimum period for a partnership agreement will be for three years and no partnership will continue longer than seven years without the approval of the full Board.

Package Deals – This describes a situation where a developer approaches The Osprey Group and offers a site for development but on the condition that they are the developer and as such there is no competitive process in respect of the contract. All decisions to enter into a package deal agreement must be approved by the relevant Committee and they will be required to demonstrate that such arrangements demonstrate best value for The Osprey Group taking into account operational and strategic considerations.

III CONTRACT AWARD AND CONTRACT MANAGEMENT

20. Contract documents to be issued as part of tender procedure

The Osprey Group should use the relevant standard template form of contract for its procurement. The relevant standard template form of contract should be reviewed and amended as appropriate to reflect the terms of the contract being required and The Osprey Group's particular requirements. Any amendments to the relevant standard template form of contract must be approved by the Executive Director before the form of contract is issued along with the tender documentation.

Where The Regulations apply (and in other cases as a matter of good practice), these draft contractual conditions cannot be amended after publication. Any clarifications which you consider necessary in respect of written tender submissions should be dealt with during the tender process. That being said, there is limited scope to clarify minor issues with the successful bidder once they have been appointed. However, negotiation on price and material terms of the contract is strictly prohibited under The Regulations, and before engaging in any post-tender clarifications you should take advice from The Executive Director. Any negotiation of this nature will be in breach of The Regulations and would expose The Osprey Group to potential risk of a challenge by an unsuccessful bidder.

21. Contract award

Following evaluation of tender responses and application of award criteria, all tenders will be scored and a contract award decision will be made.

Contracts must not be awarded until such time as all required documentation is presented to, and checked by, The Group. For example method statements, risk assessments, etc. A suitably qualified employee/consultant will undertake this task.

Payment for contracts shall only be made in accordance with the conditions contained within the contract specifications and on the submission to The Osprey Group of a detailed statement of account in an approved format.

Contract variations will only be accepted for payment on the provision of an approved Variation Order signed by the relevant Director.

All contracts shall be monitored in accordance with the procedures stated within the contract specification documents. Any issues will be immediately highlighted to the relevant Service Manager.

A formal Performance Review shall be undertaken at the end of every contract period to document the effectiveness of the service provided and to record the level of satisfaction with the contractor.

Before any service is subjected to a repeat tendering exercise a review shall be undertaken to assess:

- the benefits of further competitive tendering
- qualitative outcomes
- alternative options for the service provision
- changes which should be made to the previous tendering procedure
- changes to the format and content of the specifications and tender documents

22. Contract Management

The Regulations restrict The Osprey Group's ability to modify publicly procured contracts. If you are thinking of modifying a publicly procured contract, please discuss in the first instance with the Director of Corporate Services.

Where there is a material breach of contract this will be reported to the next relevant Resources Committee.

In instances where there is reason to believe that:

- The contractor is going into receivership or administration;
- The contractor is actively looking to sell or merge its business; or
- The contractor is ceasing to trade, or threatening to cease trading

The Osprey Group will take immediate steps to formally investigate the above and if necessary, to take positive steps to minimise any potential detriment to The Osprey Group and its customers. This may include ensuring that another contractor completes current contracts. Where a merger takes place, an automatic transfer of all on-going contracts will take place only if The Osprey Group is clear that the same contract terms and conditions will be met. This includes levels of customer satisfaction.

Where the working practices of a contractor fall short of the standards expected by The Group, The Osprey Group will take steps to improve the situation. However, at no time will The Osprey Group allow its reputation to be diminished by The Activities of a contractor and in this event; active steps will be taken to terminate any contracts held.

Where the above is suspected or taking place, then the Scottish Housing Regulator should be advised and in accordance with guidance in respect of 'Notifiable Events' and issued by that body in April 2012.

Appendix 1 CERTIFICATE OF BONA FIDE TENDER

Tender for _____

We certify that this is a bona fide tender, intended to be competitive, and that we have not fixed or adjusted the amount of the tender in concert with any other person. We also certify that prior to the official tender date we have refrained from any of the following acts:

- (a) communication to a person other than the person calling for those tenders the amount or approximate amount of the proposed tender, except where the disclosure, in confidence, of the approximate amount of the tender was necessary to obtain insurance premium quotations required for the preparation of the tender
- (b) entering into any agreement or arrangement with any other person that he shall refrain from tendering or to affect the amount of any tender to be submitted
- (c) offering or paying or giving or agreeing to pay or give any sum of money or valuable consideration either directly or indirectly to any person for doing or causing or have caused to **be done in relation** to any other tender or proposed tender for the said work any act or thing of the sort of described above

In this certificate, the word "person" includes any persons and any body or Group, corporate or unincorporated; and "any agreement or arrangement" includes any such transaction, formal or informal, and whether legally binding or not.

Signed as in tender

For and behalf of

.....

.....

Date

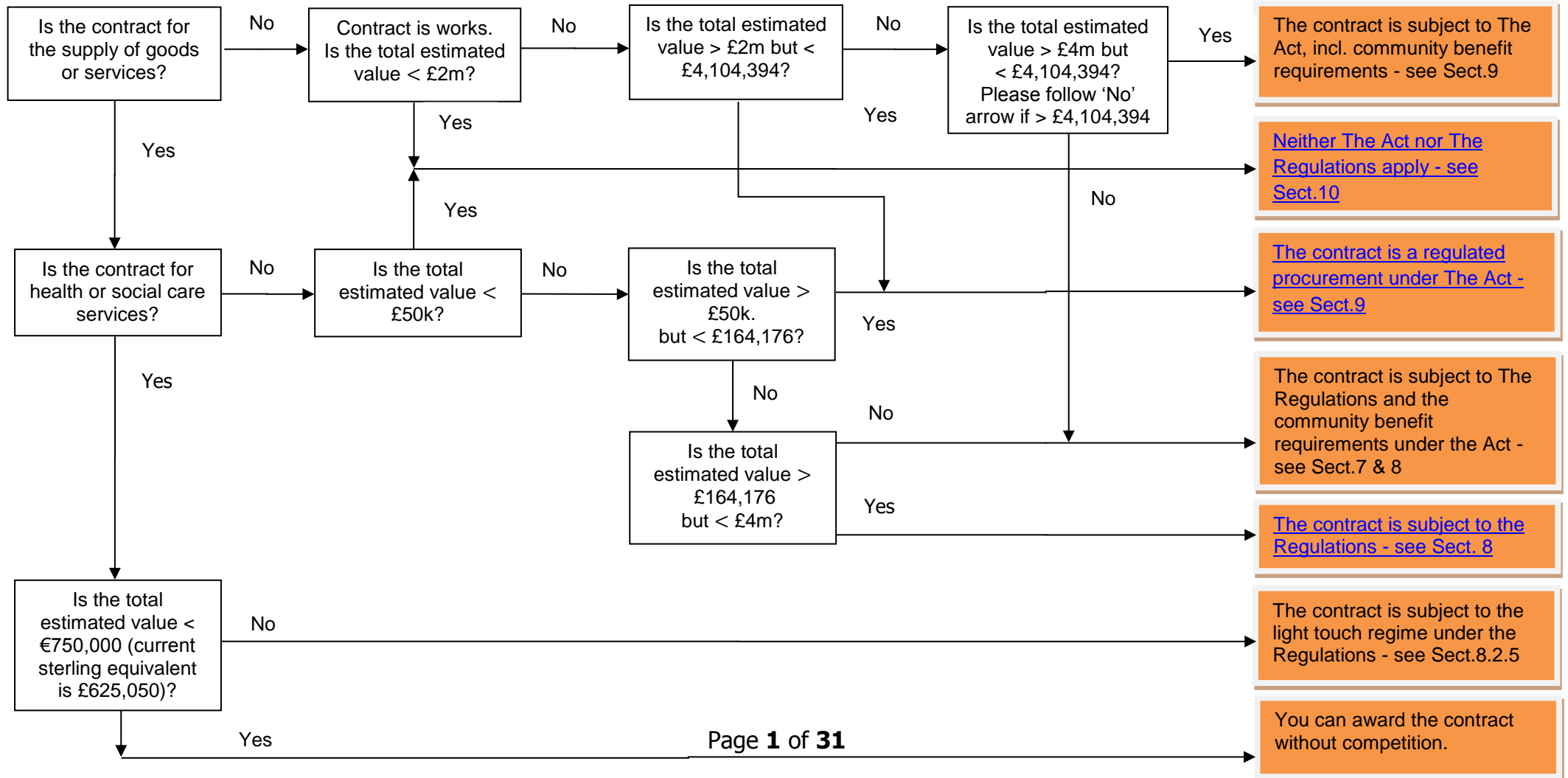
Appendix 2 – Choice of procurement procedure

The following flowchart has been designed for Group staff members to determine what statutory requirements apply to procurements. The relevant legislation is as follows:

- Procurement Reform (Scotland) Act 2014 – the “Act”; and
- Public Contracts (Scotland) Regulations 2015 – the “Regulations”.

Even where a procurement does not fall under the requirements of either The Act or The Regulations Group staff must ensure that bidders are treated equally and non-discriminatory and that The Osprey Group acts in a transparent and proportionate manner.

Depending on whether the procurement is subject to The Regulations, The Act or only the Groups’ internal policies, please refer to the appropriate section of the Procurement Manual for information on how to conduct the procurement process.



Appendix 3 – Procurement Timetable

Choice of procedure	Standard timescales	Options for The Group to reduce timescales	Tenders submitted electronically	Requirement is urgent and longer time limit is impractical as a result	PIN published no more than 12 months and no less than 35 days from despatch of contract notice
Open	Despatch of contract notice to receipt of responses 35 days		5 day reduction	Period reduced to 15 days	Period reduced to 15 days
	Standstill period 10 days if notice issued electronically. 15 days if by other means				
Restricted	Despatch of contract notice to receipt of responses 30 days			Period reduced to 15 days	
	Invitation To Tender to receipt of tenders 30 days	May agree time-limit with tenderers – in absence of agreement minimum period is 10 days	5 day reduction	Period reduced to 10 days	Period reduced to 10 days
	Standstill period 10 days if notice issued electronically 15 days if by other means				
Competitive dialogue	Despatch of contract notice to expressions of interest 30 days				
	Standstill period 10 days if notice issued electronically 15 days if by other means				
Competitive	Despatch of				

with negotiation	contract notice to expressions of interest 30 days				
	ITN to receipt of tenders 30 days	May agree time-limit with tenderers – in absence of agreement minimum period is 10 days	5 day reduction	Period reduced to 10 days	Period reduced to 10 days
	Standstill period 10 days if notice issued electronically 15 days if by other means				