



PROCUREMENT POLICY	
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OSPREY PROCUREMENT POLICY STATEMENT

Osprey Housing believe that effective and efficient procurement is vital to the success of maintaining good quality services for all our tenants and delivering value for money.

We embrace quality delivery of our services and this is encompassed in our Core Values:

- **Ambition and Achievement** – we are a high performing organisation delivering through innovation and challenge
- **Equality and Respect** – we recognise and celebrate the unique value in everyone
- **Quality and Professionalism** – we strive to deliver high standards
- **Agile and Responsive** – we are flexible and quick to deal with change without diminishing our delivery

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Section 1 - OVERVIEW OF POLICY AND PROCUREMENT PRINCIPLES

All procurement undertaken by Osprey Housing must have regard to the Procurement Strategy and the values, objectives and goals set out in that Strategy.

1. Objectives and Principles of this Policy

The key aims of this policy are to:

- Comply with all relevant legislative requirements
- Work collaboratively to improve efficiencies and enhance value for money
- Ensure that all procurement is proportionate to the size and scale of the requirement
- Ensure best practice in procurement is applied consistently across the organisation
- Consider small and medium enterprises in the design of procurement activities
- Ensure sustainability is considered throughout our procurement activities
- Ensure that there is a clear audit trail associated with the procurement of all contracts

2. Legislative Framework

The following legislative and regulatory guidance apply to this policy;

- Public Contracts (Scotland) Regulations 2015
- Procurement Reform (Scotland) Act 2014
- Procurement (Scotland) Regulations 2016
- Guidance under the Procurement Reform (Scotland) Act 2014
- Scottish Government Construction Procurement Manual
- Scottish Government Procurement Journey
- EU Public Procurement Directive – 2014/24/EU
- EU General Data Protection Regulation (GDPR) 2016
- Freedom of Information (Scotland) Act 2002
- SHR Regulatory Standards of Governance & Financial Management & Guidance 2024

3. Linked Documents

This policy should be read in conjunction with the following Osprey documents;

- Scheme of Delegated Authority
- Entitlements, Payments and Benefits Policy
- Procurement Strategy
- Financial Regulations

4. 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:

- Define the desired outcome from the procurement exercise
- Risk analysis on external V internal provision
- What are the requirements for this particular contract to be undertaken impartially and independently
- Budgetary impacts
- Ascertain if the project would benefit from a collaborative approach

Osprey Housing may also wish to undertake some form of pre-procurement market review or pre-tender engagement in the relevant sector or market area in order to better inform Osprey Housing's requirements.

Any pre-procurement market review exercise should be tailored to reflect the requirements of Osprey Housing 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 Osprey networking and benchmarking Osprey's competitors
- 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
- informal approaches to potential Suppliers to gain a fuller understanding of Osprey Housing's requirements and Suppliers' capacity, capability and interest to meet such requirements.

5. Roles and Responsibilities

The Board is responsible for ensuring that Osprey Housing is compliant with legislative and regulatory requirements in respect of procurement, and that its policies and Procedures deliver these. The Board will be responsible for approval of any authority delegated to staff in respect of procurement activity. An annual Procurement strategy will be developed and approved by the Board.

The Resource & Governance Committee is responsible for ensuring that Osprey Housing complies with its Policy and Procedure in this area and will receive bi-annual reporting in relation to; the delivery and performance of contracts awarded, the need for future tender exercises, outcomes of procurement exercises.

Senior Leadership Team is 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 Osprey Housing.

Section 2 - PROCUREMENT DELIVERY

6. Application of Relevant Legislation

When procuring contracts for goods, services or works, Osprey Housing must comply with the Public Contracts (Scotland) Regulations 2015 (referred to as “the Regulations”) and the Procurement Reform (Scotland) Act 2014 (referred to as “the Act”).

Osprey are subject to a two tier procurement regime where the Regulations will apply to contracts with a value which meets or exceeds the relevant EU thresholds (£214,904 for supplies or services and £5,372,609 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)

EU thresholds - Public Contracts (Scotland) Regulations 2015 – figures updated Jan 2024

Contracting Authority	Public Contract Type	Threshold (exc VAT)	Threshold (Inc VAT)
Other contracting authorities (RSL, LA, etc and subsidised contracts)	Supplies or Services	£179,087	£214,904
All contracting authorities	Works (inc subsidised work contracts)	£4,477,174	£5,372,609
	Light touch regime for services	£552,950	£663,540
	Small lots goods	£58,982	£70,778
	Small lots works	£737,267	£884,720

Scottish Procurement Thresholds – Procurement Reform (Scotland) Act 2014 – figures at Jan 2024

Contracting Authority	Public Contract Type	Threshold (exc VAT)
All contracting Authorities	Supplies or Services	£50,000
	Works	£2,000,000

6.1 Overview of Public Contracts (Scotland) Regulations 2015

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.

Certain categories of services are exempt from the full terms of the Regulations (for example, legal services). In addition, certain contracting arrangements (such as Section 75 Developments, provision of specific Software, etc.) are exempt from the terms of the Regulations and such arrangements do not need to be publicly procured.

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.

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 EU Member States, where appropriate

6.2 Overview of the Procurement Reform (Scotland) Act 2014 – Updated June 2021

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** – Osprey Housing 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 Osprey Housing to conduct its procurements in a way designed to secure the improvements identified.
- **Procurement strategy** – The Act requires Osprey Housing 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. Osprey Housing 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), Osprey Housing must consider whether to impose community benefit requirements as part of the contract delivery, before carrying out the procurement. Osprey Housing 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 Osprey Housing when selecting tenderers

6.3 Principles Applicable under both the Regulations and the Act

Procurement exercises relative to contracts with an estimated value which meets or exceeds the applicable 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 Osprey staff in determining which statutory requirements apply to a particular procurement.

7. Procurement Routes and Responsibilities

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 Osprey may, if appropriate, use any one of the procurement routes.

It is expected that the majority of Osprey procurement activities will fall under the Open or Restricted processes. The six procurement routes are summarised using the Scottish Government procurement journey website (<https://www.procurementjourney.scot/>). Each of these Procedures is subject to certain minimum timescales as noted in Appendix 3.

These guidelines apply to all procedures under the Regulations:

- A representative of the respective Committee and a senior member of staff from the respective service will be present during the electronic ‘opening’ and scoring of all submitted tenders. This will be agreed as part of the annual strategy in terms of delegation and relevant technical expertise.
- Following the contract award decision, Osprey Housing 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 Chief Executive Officer.
- If required, the Director of Assets will publish a contract award notice in the OJEU, via the Public Contracts Scotland website.
- The relevant Director will report the award of the contract to the relevant Committee and Board, detailing the main aspects of the Contract.

7.1 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, and/or achieve minimum scores in respect of certain questions in order for their tender to be fully evaluated by Osprey Housing.

Under the Open Procedure, Osprey Housing can ask tenderers to clarify aspects of their tenders following submission. However, material changes to the terms of tenders are not permitted and Osprey Housing 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 Osprey Housing anticipates a significant volume of responses and wishes to limit the number of tenderers invited to the tender stage of the process.

7.2 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.

Osprey Housing then issues a pre-qualification questionnaire (PQQ) to these interested parties and follows the pre-qualification stage process. Only those parties which meet Osprey Housing’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, Osprey Housing can ask tenderers to clarify aspects of their tender’s following submission. However, material changes to the terms of tenders are not permitted and Osprey Housing 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 Osprey Housing is able to adequately specify its needs. For more complex procurements, Osprey Housing 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.

7.3 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. Osprey Housing may then carry out a short-listing exercise (using a PQQ) and only those meeting Osprey Housing'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).

Osprey Housing will then enter into a dialogue with bidders to develop one or more suitable solutions to meet its needs. There is no set format for that dialogue. 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, Osprey Housing should make a detailed record of the meetings, to ensure that all tenderers are treated equally and are given the same opportunities to access relevant information.

During the course of the dialogue, Osprey Housing 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 Osprey Housing does choose to down select, it should ensure that at least two tenderers remain in the dialogue until the process concludes.

When an appropriate solution(s) has been identified, Osprey Housing will conclude the dialogue phase and invite final tenders. Osprey Housing 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 Osprey Housing will evaluate these 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 Osprey Housing 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 Housing 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.

7.4 Competitive with Negotiation Procedure

The Competitive with 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 Osprey Housing to award a contract on the basis of an initial tender. However, like the Competitive Dialogue Procedure, it also enables Osprey Housing 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 Osprey Housing 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 Osprey Housing 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 Osprey Housing needs to have the option to negotiate with tenderers.

7.5 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. 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).

7.6 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.

8. Procurement Principles – All Procedures

There are no specific prescribed procurement Procedures or timescales under the Act. However, Osprey Housing may use any one of the procurement Procedures of the Regulations as described above for procuring contracts which are subject to the Act. The Framework, Contract Notice, Tender Documentation and Contract Documentation must be published on the [Public Contracts Scotland website](#).

8.1 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 Director. 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.

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 at the conclusion of the tender procedure.

8.2 Receipt of Tenders

When the submission deadline is reached the agreed representative of the Board and a senior member of staff 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 relevant Director may accept the tender provided.

The tenders will be formally recorded in the appropriate Register 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.

8.3 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:

- Director
- Additional relevant staff dependant on tender content
- 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. The lead Director (or consultant if necessary) will make checks to ensure that the Contractors are all measuring the same elements.

Any discrepancies will be checked, and if necessary, the Director 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.

8.4 Contract Award

Following a recommendation by the relevant Director or Consultant, the tender will be accepted and signed on behalf of Osprey Housing by the lead Director. All

documentation in relation to contract award will be held and coded in the Procurement SharePoint site.

8.5 General Principles for All Contracts

There are a range of general principles which apply and which must be considered by Osprey Housing 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 issued or 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 lead Director will ensure the financial viability of the Contractor to complete major contracts prior to official acceptance. This will be done in conjunction with Director of Finance and credit checks if required.
- 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 Osprey Housing's **tender requirements** and are used to identify the tender that is the most economically advantageous;
- Tenders will not 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 Osprey Housing and will determine the Cost V Quality point weightings.
- Cost V Quality weightings will be clearly identified in the initial tender documentation. The assessment of Cost V Quality will form part of the Annual procurement strategy on a per contract basis and this will dependant on the type of contract, the values assumed and the impact of quality on the desired outcome.
- 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 Osprey Housing. 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.
- 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).
- A description of all contracts entered into (and where possible before completion) will be provided to the Chief Executive.
- A central contracts register will be held and will also be reported to Resource & Governance Committee and the Board bi-annually and form part of the Annual Procurement Strategy.

- 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.

9. Awarding Contracts which are under 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.

9.1 Thresholds and the Relevant Procedure

The table below clearly outlines the approach to be taken by Osprey Housing dependant on the value and relevant legislation that applies:

Legislation	Risk/Value score	Estimated Value of contract	Procedure to be followed
Neither the Act nor the Regs apply	Very Low value / Low risk	Below £3,000 for; <ul style="list-style-type: none"> • Works, • Goods • Services/supplies 	Estimated cost agreed ahead of commitment to be obtained to assess Value for Money. Approvals within delegated authority levels with no public procurement exercise requirement
	Low Value / Low Risk	Between £3,000 and £10,000 for; <ul style="list-style-type: none"> • Goods • Services/supplies 	Minimum of two quotes to be obtained. Appointment on either price or MEAT dependant on nature of tender.
	Medium Cost / Low risk	Between £10,000 and £50,000 for; <ul style="list-style-type: none"> • Goods, • Services or supplies 	Minimum of three competitive quotations via Quick Quote (QQ) using standard documentation. Appointment on either price or MEAT dependant on nature of tender.
	Medium Cost / High risk	Between £3,000 and £50,000 for; <ul style="list-style-type: none"> • Works 	Minimum of two quotes to be obtained or use of pre qualified framework which has been advertised in relation to the type

			<p>of works required for procurement.</p> <p>Invite to Pre approved/qualified contractors to submit specifically costed submissions relevant to job lot.</p> <p>Appointment on either price or MEAT dependant on nature of works.</p>
	High Cost / High risk	<p>Between £50,000 and £2,000,000 for;</p> <ul style="list-style-type: none"> • Works 	<p>Best practice tender process using one of the following processes;</p> <ul style="list-style-type: none"> • 'Call Off' of a pre qualified framework which has been advertised in relation to the type of works required for procurement. • Invite to Pre approved/qualified contractors to submit specifically costed submissions. <p>At least 3 competitive tenders via Scottish Contract notice on PCS. Both processes use MEAT evaluation application.</p>
The Act Applies	High Value / High Risk	<p>Between £2,000,000 and £5,372,609 for works</p> <p>Between £50,000 and £214,904 for goods and services/supplies</p>	<p>Formal Scottish Tender process to be followed with at least 3 competitive tenders via Scottish Regulated Contract Notice on PCS.</p> <p>Contractor/supplier evaluated as being the MEAT to be appointed.</p>
The Act and the Regs apply	Very High Value / High Risk	<p>Over £5,372,609 for works</p> <p>Over £214,904 for goods and services/supplies</p>	<p>OJEU tender process with at least 3/5 competitive tenders via EU Regulated Contract Notice on PCS full tendering procedure. Contractor/supplier evaluated as being the MEAT to be appointed.</p>

9.2 Contractor Management and Approved List

Osprey Housing will maintain a list of approved providers. In respect of all lower-value contracts, Osprey Housing 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 £3000.00) 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 Osprey Housing, 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 Osprey Housing
- 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 Equality Policy/Statement)
- Professional references (where Osprey Housing 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 reworking practices, then further investigations may be undertaken by Osprey Housing prior to a contractual commitment being undertaken. In addition, restrictions may be placed on any contract award.

The relevant member of SLT 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 engaging with a Contractor who is on Osprey Housing's approved providers list, it may be possible for Osprey Housing to draw down services/ goods/ works under a framework which has been established by a third party.

10. Low Value Contracts (as defined in section 9.1)

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.

The relevant procuring staff member or Director 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 evaluating staff member requesting the quotations.

The quotations will be accepted and signed for on behalf of Osprey Housing by the relevant staff member or Director as determined by their level of authority as set out in the Schedule of Delegated Authority.

All documentation in relation to quotations and acceptance will be held and coded in the Procurement SharePoint site.

11. Medium Value Contracts (as defined in section 9.1)

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 Director and each later acknowledged with a decision on the outcome.

The lead Director will make checks to ensure that the competitive quotations are measuring the same elements. Any discrepancies will be checked, and if necessary, the Contractor will be contacted 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 Osprey Housing by the relevant Director 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 relevant Director.

All documentation in relation to the tender and award will be held and coded in the Procurement Sharepoint site.

12. High Value Contracts (as defined in 9.1)

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 Director involved but may be by a additional senior members of staff or suitably qualified consultant included, depending on the complexity of the project. Consideration should be given as to which is the most appropriate route to use - option 1 (Pre Quality Approved Framework) or option 2 (advertisement on Public Contracts Scotland).

The deadline will be no sooner than fifteen working days after the Contractor receives the documentation. 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 electronically and saved in the relevant file without being opened, or in a sealed envelope using stickers provided by Osprey Housing detailing:

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

Electronic or 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 Director may accept the tender provided. The tenders will be formally recorded in the appropriate tender Register and all those who responded contacted and advised of the decision following the evaluation process.

The lead Director 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 Director 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 Osprey Housing by the relevant Director or CEO in accordance with authority levels as set out in the Schedule of Delegated Authority.

All documentation in relation to tender, evaluation and contract award will be held and coded in the Procurement SharePoint site.

13. Framework Agreements

Rather than conducting a stand-alone procurement Procedure in respect of a requirement of Osprey Housing, procurement through a framework agreement may be considered.

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).

Osprey Housing will set up its own framework for ongoing procurement of capital works related items that will be instructed on an annual/regular basis across our stock profile, for example windows, doors, kitchens and bathroom components.

Osprey may also explore whether there is a suitable existing framework agreement put in place by another contracting authority under which Osprey Housing 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).

13.1 Framework agreements and requirement for advertisement 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.

13. 2 Call-offs under a framework agreement

Where there are several suppliers or contractors on a pre qualified and awarded framework, there are two ways in which call-offs might be made:

- Where the terms laid out in the framework agreement are detailed enough for Osprey to be able to identify the best Supplier/contractor 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 Osprey to be able to identify which Supplier/contractor 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.

14. 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 Osprey Housing's requirements

- Where Osprey Housing 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 Osprey Housing 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 Chief Executive 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 Osprey Housing 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.

15. 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. 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 and approved by a member of the SLT within their delegated authority.

16. 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, Osprey Housing 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 Osprey Housing's ability to modify publicly procured contracts.

17. Joint Procurement

Where there is appropriate benefit, opportunities to jointly procure services with other Registered Social Landlords (RSL's) or organisations should be explored. In all cases where new contracts are due to be negotiated, Osprey Housing will ensure that joint procurement opportunities are explored prior to advancing internal Procedures. Where it jointly procures services, Osprey Housing 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 Osprey Housing 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 Board.
- **Package Deals** – This describes a situation where a developer approaches Osprey Housing 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 Board and they will be required to demonstrate that such arrangements demonstrate best value for Osprey Housing taking into account operational and strategic considerations.

Section 3 - CONTRACT AWARD AND CONTRACT MANAGEMENT

18. Contract Documents to be Issued as Part of Tender Procedure

Osprey Housing 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 Osprey Housing's particular requirements. Any amendments to the relevant standard template form of contract must be approved by the Chief Executive 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 Chief Executive. Any negotiation of this nature will be in breach of the Regulations and would expose Osprey Housing to potential risk of a challenge by an unsuccessful bidder.

19. 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, Osprey Housing. 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 Osprey Housing 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 Director.

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 on the Contracts Register.

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

20. Contract Management

The Regulations restrict Osprey Housing'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 Chief Executive.

Where there is a material breach of contract this will be reported to the next relevant Resource & Governance Committee or via the Emergency Cabinet Board (ECB) dependant on circumstances.

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
- The Contractor is ceasing to trade, or threatening to cease trading

Osprey Housing will take immediate steps to formally investigate the above and if necessary, to take positive steps to minimise any potential detriment to Osprey Housing 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 Osprey Housing is clear that the same contract terms and conditions will be met. This includes levels of customer satisfaction. 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'.

Where the working practices of a Contractor fall short of the standards expected by Osprey Housing, Osprey Housing will take steps to improve the situation. However, at no time will Osprey Housing 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.

21. Equality and Diversity

Osprey shall strive to ensure equality of opportunity, and by definition, that all individuals are treated fairly regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Osprey opposes, and shall adopt a zero tolerance stance towards, all forms of unlawful discrimination, harassment and victimisation.

In this regard, Osprey acknowledges the protected characteristics and types of unlawful behaviour defined within the Equality Act 2010. As a minimum all practices shall aim to ensure compliance with the legislative provisions therein.

22. 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 Entitlements, 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 Osprey Housing's disciplinary Procedures.

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 Osprey Housing, then they, and any associated businesses, may be excluded from a public procurement exercise. They may be subsequently disqualified from competing for current and future contracts. Legal advice will be taken where this is considered appropriate.

23. Monitoring and Reporting

The following areas will be subject to monitoring on a continuing basis:

- Outcomes from each tender exercise
- Annual Procurement Strategy
- Contract Register
- Performance reported to Resource & Governance Committee and Board
- Risk management – Strategic risk matrix

24. Review

This policy will be reviewed every 3 years unless the following criteria dictate that it would be best practice to review sooner:

1. applicable legislation, rules, regulations and guidance, both those which affect Osprey directly and those which affect the resources available to significant numbers of our customers to enable them to sustain tenancies
2. changes in the organisation
3. continued best practice

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 Osprey, 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

Procurement Journey – Flow Chart of Procurement Journey to be added

The following flowchart has been designed for Osprey staff members to determine what statutory requirements apply to procurements as outlined in Section 9.1 of the main body of the Policy. 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 Osprey staff must ensure that bidders are treated equally and non-discriminatory and that Osprey Housing acts in a transparent and proportionate manner.

Appendix 3 Procurement Timeline

Choice of Procedure	Standard timescales	Options for Osprey Housing 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 – if no agreement min 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 with negotiation	Despatch of contract notice to expressions of interest 30 days				
	ITN to receipt of tenders 30 days	May agree time-limit with tenderers – if no agreement min 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				