

PROCUREMENT POLICY

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1 INTRODUCTION

- 1.1 CHAS recognises the need for an open and accountable system when managing procurement and inviting and accepting tenders for works, services and supplies. It is therefore the intention of this policy and related procedures to clarify staff and committee responsibilities in this area across all forms of procurement.
- 1.2 The legislative framework in which VHAs must procure works, services and supplies has come about as a result of the EU procurement directives.
- 1.3 The public procurement rules vary depending on the type and value of the contract. When contracts are above a certain value (known as "above-threshold" contracts) more detailed rules apply. Above-threshold contracts must be advertised in the Official Journal of the European Union (OJEU).
- 1.4 At the time of review the guide threshold values relating to housing charities are;
 - €6,000,000 for Works
 - €250,000 for Services Contracts and
 - €250,000 for Supplies Contracts

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- 1.5 CHAS will comply with all legal obligations in relation to procurement as set out in law both domestic and EU wide.
- 1.6 Contracts which are worth less than these amounts (known as "below-threshold" contracts) are subject to fewer rules, but must still be appropriately publicised.
- 1.7 CHAS will determine the form and means of publication, taking into account the principles of open competition, equal treatment, transparency and non-discrimination. Consideration will be taken of the value of the contract and the extent to which it is likely to be of interest to suppliers. In principle, the greater the value of the contract or market interest, the greater the coverage of the advertisement should be.

2 AIMS AND OBJECTIVES

- 2.1 To ensure openness, efficiency, effectiveness and accountability in procuring works, services and supplies and when inviting, accepting and recording all tenders.
- 2.2 To ensure that Board of directors and staff act in the best interests of CHAS and that no benefit or inducement is ever sought or accepted from a supplier involved in procurement procedures. It is the duty of all Board members and staff to declare any actual or reasonably construed conflict of interest.
- 2.3 To impress upon Board members and staff that confidentiality is paramount in dealing with procurement documents. No disclosures to third parties are to be made without the express written prior consent of the Board of Directors unless compliance with statute, regulation or best practice requires it.
- 2.4 To comply with legislation and best practice.
- 2.5 To ensure equality of opportunity in all procurement procedures, all approved suppliers will be required to accept the CHAS's Equal Opportunities Policy or to have developed policies of their own that are acceptable to CHAS. CHAS will have regard to its Equal Opportunities policy in all aspects of the procurement policy and procedures.

3 POLICY PRINCIPLES

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3.1 **Legislation and Best Practice:** CHAS will comply with the law and guidance notes issued by the Housing Agency, the regulator and government procurement obligations as it relates to works, services and supplies.

CHAS's Procurement Policy will be consistent with all other CHAS Policy documents

3.2 **Equalities:** CHAS's Procurement Policy will comply with CHAS's Equality Policy to ensure equality of treatment for all suppliers without discrimination or prejudice

3.3 **Confidentiality:** CHAS recognises that confidentiality is important to the procurement process and will treat all submissions in the strictest confidence under the Data Protection Acts 1988 & 2003.

3.4 **Business Planning and Risk Management:** The objectives of any procurement will sit within the business plan for CHAS and will depend significantly on controlling costs, demonstrating value for money and balancing this with an acceptable level of service delivery which meets the expectations of our residents. CHAS therefore seeks to mitigate against business risk through managing the procurement of works, services and supplies that are affordable, fair, transparent and comparable, while ensuring that at all times the organisation is financially viable and sustainable.

3.5 **The Board of Directors:** The Board will monitor the implementation of this policy to ensure that it is properly operated; that there is appropriate officer involvement in the processes used to manage procurement, and that there is effective scrutiny of the Procurement Policy.

The Board will ensure that the Procurement Policy is meeting its intended objectives and that appropriate monitoring and reporting of activities takes place.

In implementing its Procurement Policy certain functions are the responsibility of the Board of Directors or nominated committee, although staff will have delegated authority to undertake many tasks. Examples of key functions / tasks are summarised below:

Task	Responsibility
Procurement Policy – review, amendment & approval	Board of Directors is responsible for the monitoring and approval of the Policy
Procurement Procedures – development, monitoring & review	The Administrator will develop operational procedures that reflect the principles set out within the Procurement Policy

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CHAS's Board of Directors has the ultimate responsibility for procurement of works, services and supplies and for policy review. As a result, the Board and any delegated Sub Committees which oversee the particular works, services or supplies and will receive regular reports on the basis of procurement and the awarding of contracts.

Where contracts are over the value of €5k the Board or the delegated Sub Committee are required to approve all awards of contracts.

The Board of Directors is committed to resident participation and acknowledges the legal requirement placed upon all social landlords to consult with residents.

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4 PROCUREMENT ROLES

- 4.1 When a contract for works services and supplies is to be procured it will be the Administrator's responsibility to identify the appropriate procurement route. The Administrator is managing the role of the purchaser within procurement and has the role of committing the organisation to a contract for the purchase of works, services and supplies. This role is separate from the budget holders who have the authority to commission works, services and supplies. Financial approval may be sought through the Chair of the Board or the finance sub-committee.
- 4.2 Works, services and goods should be acquired by effective competition including adequate publication of the contract opportunity unless there are convincing and justifiable reasons to the contrary. The form of competition should be appropriate to the value and complexity of the works, services or supplies to be acquired.
- 4.3 The specification for the works, services or supplies with performance indicators and associated methods of measuring and monitoring performance is the responsibility of the senior officer managing the contract.

5 DELEGATION OF AUTHORITY TO INSTRUCT WORKS

- 5.1 Works, services and supplies estimated up to an agreed value can be instructed by staff, as detailed in the Procurement Procedures. For purchases with an estimated value of over €8,000 must be subject to competitive tendering to achieve best value and for works less than €8,000 written estimates are required to complete the procurement exercise. The agreed values of delegated authority to instruct works will be reviewed annually by the Board.

6 ESTABLISHING A PROCUREMENT ROUTE

- 6.1 Once the need for the purchase is identified, the business case and the estimated budget established the procurement route can be established by the Administrator.
- 6.2 The first step is to establish if there are any existing contracts/frameworks agreements that will meet our requirements. If these are in place further information should be sought to determine if these can be used.
- 6.3 If no existing contracts/ frameworks are in place the procurement route should be established using the value, the potential risk, and the need for publicity.

7 PROCUREMENT ROUTE 1 – DAY TO DAY PURCHASES

- 7.1 Procurement Route 1 covers day to day works, services and supplies of less than €8,000.
- 7.2 This route requires different levels of authority to agree and specify purchases of less than €2,000.
- 7.3 This route requires estimates for purchases over a value of €1,000 where the specification and at least one written estimate, or other evidence of value for money, is required and may be arranged at Officer Level. Estimates should be taken from the existing approved supplier's list from which suppliers will already have been reviewed and their prices vetted.
- 7.4 Purchases between €1,000 and €4,000 require a specification and at least one written estimate, or other evidence of value for money, and will be arranged by the Senior Officer (Facilities Manager). Estimates should be taken from the existing approved suppliers list from which suppliers will already have been reviewed and their prices vetted.
- 7.5 Purchases between €4,000 and €8,000 require a specification and three written estimates, or other evidence of value for money, and will be arranged by the Senior Officer. Estimates should be taken from the existing approved suppliers list from which suppliers will have already been reviewed and their prices vetted.
- 7.6 Where the contract involves specialist work for which the Association has no approved supplier, or where additional suppliers are required to provide estimates recommendations will be sought from other HAs or consultants.

Any supplier selected will be expected to demonstrate all of the following attributes: -

- (i) Technical knowledge and skills for the task
- (ii) Competence in Health and Safety Management
- (iii) Appropriate resources
- (iv) Previous experience and references
- (v) Financial viability

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- 7.7 A report on all non-approved suppliers will be presented to the Board of Directors for consideration and ultimate approval for the specific estimate exercise only. However, where such specialist work is likely to be required on an ongoing ad hoc basis, the successful supplier may be invited to apply to join the approved suppliers list.
- 7.8 When identifying appropriate suppliers, staff must ensure that no one supplier is asked to tender or instructed to carry out works significantly more often than any other appropriate suppliers.
- 7.9 Where more than one estimate has been received for works, services or supplies the responses should be evaluated by price and to ensure they meet the terms of the specification.

8 PROCUREMENT ROUTE 2- TENDERING PROCESS WITHIN THRESHOLD

- 8.1 Procurement Route 2 covers works, services and supplies of between €8,000 and €50,000 and requires these purchases to be procured through tendering.
- 8.2 When a contract is to be tendered, invitation to tender should be drawn from the CHAS current list of approved suppliers. Should there be insufficient numbers to ensure three returned responses (it is recommended that 5 tenders be issued to include for nil returns).
- 8.3 Any supplier selected will be expected to demonstrate all of the following attributes: -
- (vi) technical knowledge and skills for the task
 - (vii) competence in Health and Safety Management
 - (viii) appropriate resources
 - (ix) previous experience and references
 - (x) financial viability
- 8.4 A report on all non-approved suppliers will be presented to the relevant Board of Directors for consideration and ultimate approval for the specific estimate exercise only. However, where such specialist work is likely to be required on an ongoing ad hoc basis, the successful supplier may be invited to apply to join the approved suppliers list.
- 8.5 When identifying appropriate suppliers, staff must ensure that no one supplier is asked to tender or instructed to carry out works significantly more often than any other appropriate suppliers.

9 TENDERING INFORMATION

9.1 The following information will be issued to the selected suppliers: -

- (i) Letter of invitation
- (ii) Instructions regarding tendering procedure
- (iii) Full description of purchase
- (iv) Standard specification
- (v) Pricing document (if applicable)
- (vi) Conditions of contract such as KPI's and monitoring arrangements
- (vii) The period in which the purchase is to be completed
- (viii) Title of the supervising officer for the purchase
- (ix) Arrangements for the prior inspection of the works, if required
- (x) Conditions of payment

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- 9.2 If for any reason the tender document has to be amended, all tenderers must be notified in writing and if necessary, an extension to the tender period granted.
- 9.3 In exceptional circumstances only, where there is only one supplier capable of delivering the product or service, then CHAS may choose to negotiate the tender with that one supplier. This would occur if only one supplier can undertake the work required and should be recorded as a Non-Competitive Action. The remainder of this procurement route should then be followed. For commercial reasons, the supplier should not be informed that they are the only supplier involved in the process.
- 9.4 However, CHAS will generally award the contract on the basis of the offer which is either the most economically advantageous, or offers the lowest price.
- 9.5 Where suppliers are involved in a tendering process, the Administrator will prepare a full report to the Board. Any selection panel required in regard to the above interviews or procedures will include at least one Board member, one staff member and a consultant (if necessary). Suppliers will also be advised of this, before the process begins.

10 RECEIPT OF TENDERS

- 10.1 The Senior Lead Officer will agree the tender return date and time, together with the consultant, (where one is appointed).
- 10.2 The Senior Lead Officer will ensure the office diary is clearly marked and appropriate reception staff aware of the tender return date, to reduce the possibility of tender envelopes being opened prematurely.
- 10.3 Upon receipt of tender envelopes: -
- i) The envelope will be date and time stamped over the flap seal and initialled by the recipient.
 - ii) A receipt will be completed and given (if hand delivered), or posted to the supplier.
 - iii) The date and time received will be noted on the Tender Receipt List, against that supplier's name and filed with the tenders.
 - iv) The tender envelopes and Tender Receipt List will be held in the safe until the appointed time for opening them.
 - v) Late tenders will be date and time stamped over the flap seal as above and the details added to the Tender Receipt List. The tender envelope will be returned to the supplier unopened, together with a covering

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letter confirming that the tender has not been accepted due to its late arrival.

- vi) Where a supplier has failed to return a tender or has pre-advised of their intention not to return, this will be noted on the Tender Receipt List and any relevant comments added. It will also be confirmed to the supplier in writing that their tender has not been returned and cannot therefore be considered.
- vii) Where there is any evidence of tampering with the tender return envelope, this will be subject to committee review and possible rejection and the relevant supplier advised accordingly.

11 TENDER OPENING

- 11.1 The Senior Lead Officer will arrange for appropriate Board members to be present for the formal tender opening ceremony which will normally take place in the CHAS offices in Scully House.
- 11.2 The panel will include an office bearer of CHAS, at least one other Board members and the lead consultant if appropriate.
- 11.3 The staff member will record the tender return date, time of opening and type of contract in the Tender Register. All who attend will sign and state their designation in the Tender Register and any declaration of interest must be recorded.
- 11.4 The tender envelopes will be passed unopened to the Senior Lead Officer who will open each envelope and read aloud the name of each supplier and the tender sum provided. The staff member will record each bid figure received against each supplier in the Tender Register and whether inclusive or exclusive of VAT, together with any qualification accompanying the tender.

12 ACCEPTANCE OF TENDERS

- 12.1 Following the tender opening, it will generally be necessary to check the information returned with tenders and carry out arithmetical checks to ensure the calculations and final bid prices are accurate. This will be done by the Senior Lead Officer together with the Consultant where appropriate.
- 12.2 Where any minor inconsistencies are identified in the lowest tender, the Senior Lead Officer, or lead consultant if appropriate, will clarify the position and invite the suppliers to agree to any necessary amendment or correction.
- 12.3 In the event of more substantial mistakes or inconsistencies being identified, this will be reported to the Board for decision as to whether: -
- i. the defaulting supplier should be approached and given the opportunity to amend the submission.
 - ii. all suppliers should be advised and be given the opportunity to reconsider and amend their submissions.
 - iii. the defaulting supplier's submission should be omitted and the original selection confirmed, or another supplier selected if the previously lowest bid was the defaulting supplier.

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- iv. The tender exercise should be repeated, either with all existing invited suppliers or with an amended list.
- 12.4 CHAS will generally accept the lowest tender received, except in extenuating circumstances, as noted above or where e.g. increased work load of the successful tender prevents their accepting the contract, or information regarding the suitability of the tenderer subsequently becomes known.
- 12.5 A decision to accept a tender, other than the lowest one can only be made by the Board of Directors. No contractual relationship is entered into until contracts are signed and CHAS reserves the right to end the procurement process without explanation.
- 12.6 All decisions on acceptance of tenders must be recorded. All information received on tender documentation will remain private and confidential and will not be divulged to any third party without their permission.
- 12.7 Once the preferred supplier has been agreed, CHAS must allow a standstill period of 5 or 10 days to elapse before entering into the contract.
- 12.8 All other tenderers will be advised, in writing that they have been unsuccessful. They may also be advised of the successful tender price and/or of all tender prices received if requested, although the suppliers responsible for providing each price will not be divulged.
- 12.9 In the event that an unsuccessful tenderer requires further information as to the reasons why it was not successful, the Association must provide this within the appropriate timescale.
- 12.10 Assuming there are no challenges to the tender award decision, the Senior Lead Officer will inform the successful supplier of the appointment in writing.

13 PROCUREMENT ROUTE 3 – TENDERING PROCESS ABOVE THRESHOLD

- 13.1 Procurement Route 3 covers works, services and supplies of between €6m for Works and €250,000 for Service contracts and services as outlined in Clause 1.4
- 13.2 Where the contract is over the relevant threshold or over €50,000 and requires to be advertised on the OJEU website, the Association will be bound by whatever requirements, timescales and award criteria are contained in the contract notice and tender documentation, as this is the basis of all dealings with tenderers going forward.

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- 13.3 A Procurement Strategy Template be completed for each purchase and clarifies matters such as; the requirements of the purchase, staff responsibilities, contract budget, risks, the procurement process, the pricing strategy and the tender evaluation team
- 13.4 A timetable for each contract and compilation of the members of the Tender Evaluation Team should be agreed before the contract notice is published as this will determine the requirements in terms of the tender process and how a tender is going to be selected.
- 13.5 In order to be transparent, the tender brief documentation should state how the winning tenderer will be chosen, whether interviews will be held, and the criteria to be applied at each stage to select the most economically advantageous tender.
- 13.6 A two stage process should be used which means that a Pre Qualification Questionnaire (PQQ) is issued, responses are evaluated and a certain number of parties which pass the PQQ stage are invited to submit a tender. A specific no of suppliers will be selected, from that list the Panel for choosing the supplier will be made.
- 13.7 The PQQ should focus on the requirements CHAS has in respect of the bidder (the selection criteria).
- 13.8 The Tender Assessment Stage should focus on the requirements for the bid itself (the award criteria).
- 13.9 At the Tender Assessment Stage, all suppliers are assumed to have the relevant skills and experience to carry out the contract. This stage is to compare their bids and determine which suppliers will deliver the specific contract in the most economically advantageous way. Questions used in the PQQ document must not be repeated in the Tender, and the score awarded at PQQ should not be carried forward to the Tender stage.
- 13.10 CHAS may also conduct individual interviews with each supplier involved in the tendering process, however this should only be in exceptional circumstances as this is where challenges arise due to the subjective nature of interviewing. If this is necessary the tender documentation should clearly state how these will be assessed and the applicable assessment criteria.
- 13.11 Once the tender evaluation is complete and agreement reached on the award of the contract a Standstill Notice should be issued to unsuccessful suppliers as soon as possible after the decision, and this should run for a period of 5 – 10 days. No contract can be entered into during the standstill period.

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- 13.12 If during the Standstill Process a tenderer notifies that they are intent to raise legal challenge CHAS must not enter into a contract, the process must be suspended until matters are resolved.
- 13.13 Resolution of a challenge will require a response within 10 days of the challenge being raised and should always refer to the set criteria and be in comparison to the successful submission. Opinions should not be given.
- 13.14 Should a challenge be raised legal advice should be sought on managing the process.
- 13.15 At the end of the standstill period and assuming no challenges to the tender award decision, the Senior Lead Officer will inform the successful supplier of the appointment in writing.
- 13.16 Once the contract is awarded the contract award notice must be published within 30 days.

14 REPORTS TO THE BOARD

14.1 In all cases, the Senior Lead Officer will report to the Board, advising of: -

- i) The tendering process that was followed, including whether the contract was advertised or not. (This will depend on the value of the contract)
- ii) the date the tender was issued, returned and opened.
- iii) names of all suppliers and tender bids received with corrected figures,
- iv) any other comments, e.g. details of non returns, etc.
- v) a recommendation giving the preferred choice and relevant reasons, i.e. that it is the most competitive tender and represents best value

15 EVALUATION OF CONTRACT PERFORMANCE

15.1 During tender contracts, regular monitoring of the KPI's included in the specification and brief must be managed by the Officer, as named at the outset of the contract, to ensure compliance with specifications and standards, this is usually the Officer who drafted the specification.

16 COMPLAINTS

16.1 Any supplier who is dissatisfied with the operation of this policy and related procedures may make a formal complaint to CHAS via the Complaints Policy.

17 REVIEW

17.1 This Policy will be reviewed three years from the date of approval, or earlier should the need arise to reflect changing circumstances or changes in legislation or good practice standards.