

1.0 OBJECTIVE

1.1 To establish, implement, and maintain a procedure to define the requirements for the appointment of contractors.

2.0 SCOPE

2.1 This procedure applies to the processes relating to the appointment of contractors, as utilised by the Development department.

3.0 RESPONSIBILITY

3.1 The Management Representative is responsible for the implementation and maintenance of this procedure.

3.2 The Director is responsible for ensuring that any issues raised by the Management Representative in relation to this procedure are addressed in a timely and effective manner.

4.0 RELATED DOCUMENTS

4.1 Refer to procedure

4.2 Scheme audit checklist

4.3 DfC Housing Association Guide:
<https://www.communities-ni.gov.uk/collections/housing-association-guide>

5.0 DEFINITIONS

5.1 IMS: Integrated Management System (QMS and EMS)

5.2 DfC: Department for Communities

6.0 INTRODUCTION

Apex Housing Association ('the Association') is governed by public law and as such is subject to the regulatory and policy framework that applies to the procurement of contractors by grant funded organisations operating in Northern Ireland. The key regulatory and policy areas are as follows:

- The Public Contracts Regulation 2015
- The Department's Procurement Section of the Housing Association Guide (HAG)
- Northern Ireland Public Procurement Policy Version 8 dated October 2012
- Procurement Strategy for the Social Housing Development Programme dated October 2008
- Procurement Guidance Notes (PGN) - The Procurement section of the HAG includes a number of PGNs that set out policy and procedures for all aspects of public procurement.

The Association is committed to the principles of equal opportunities and fairness for all and will endeavour to ensure this when implementing the following policies and procedures regarding the appointment of contractors. Selection will be on the basis of a contractor's ability to undertake and successfully complete the works in hand. Only those contractors registered with Constructionline will be considered:

The Association will use a number of procurement options to deliver social housing for the Social Housing Development Programme.

7.0 TRADITIONAL CONTRACTS**7.1 Competitive Tendering**

Where land or property has been acquired by the Association, Apex will seek to pre-qualify contractors in accordance with Regulation 57-58 of the Public Contracts Regulations 2015 ('the Regulations') for above threshold procurements¹ or, where appropriate, pre-qualify contractors using a standardised Pre-Qualification Questionnaire for below threshold procurements. The Development Committee will approve the appointment of contractors to the tender list which should not exceed a maximum of six firms. In the event of a tie for 6th place, then all Contractors in 6th place will be invited to tender.

The Association will compile a select list by publicly advertising each scheme. An advert will always be placed on the Association's website and, where appropriate, in the Official Journal of the European Union (OJEU). Only contractors who are deemed to have the organisational capacity, experience and financial standing to undertake the works will be considered. In addition any Contractor employed by the must have:

- (a) a valid registration with Constructionline and:
 - (i) Have an Active Status
 - (ii) Be approved for the work category (ies) detailed in the advertisement; and
 - (iii) Have a notation for the category of work equal to, or exceeding, the estimated annual value of the procurement
 - (iv) Where a Contractor is not registered with Constructionline or the Active Status is no longer in place, a PQQ1A Financial Addendum must be completed by the Contractor and assessed by Constructionline to determine if that same Contractor has the required notation.
- (b) a valid Tax Exemption Certificate (CIS5) or (CIS6) under the Inland Revenue Construction Industry Scheme
- (c) adequate public liability, employers liability and contractors' all risk insurances;
- (d) the appropriate VAT status;
- (e) is not an unqualified person for the purposes of the Fair Employment (NI) Act 1989.
- (f) An accredited Health and Safety System including name of accreditation body and reference/certificate number (Buildsafe – NI initiative).

The Association may also wish to obtain some or all of the following in respect of a particular contractor or contractors:

- (i) a financial report in addition to the financial information provided to Constructionline;
- (ii) Details of Management Structure
- (iii) Details of [] similar projects undertaken during the past [] years to include Client, Contract name, Telephone number and brief description of the project

¹ An above threshold procurement is when the estimated value of a works contract is greater than £4,348,350.

- (iv) Environmental Management
- (v) Past Performance in accordance with PGN 01/12

The selection criteria used will be applied fairly to all Contractors seeking inclusion on a select list. The selection procedures and evidence of the basis for selection will be clearly recorded.

7.2 Contract Award

Construction contracts that are below threshold will be awarded to the lowest acceptable price and in accordance with Procurement Guidance Note 05/12 - Simplified Approach to Procurement above £30,000 and below threshold. Construction contracts that are above threshold will be awarded to the Most Economical Advantageous Tender in terms of quality/price.

The Development Committee will approve the tender report recommending an award of contract.

8.0 OFF THE SHELF CONTRACTS

The Association may consider the option of purchasing newly completed dwellings in an area of housing need as defined by the Northern Ireland Housing Executive. http://www.nihe.gov.uk/social_housing_development_programme_unmet_need_prospectus_2012.pdf

This type of purchase by a housing association is known as an Off the Shelf ('OTS') purchase and consists of newly completed dwellings, offered on the open market by a contractor/developer for a fixed price on the basis of a single conveyancing contract (a purchase contract).

For legal reasons, housing associations are not permitted to be involved at the design or development stage of these dwellings.

The Association's new build dwellings are built to meet the Department for Communities (DfC) HAG standards. OTS dwellings purchased by housing associations do not have to fully comply with the HAG standards.

The Association will not engage with any contractor/developer at any stage before or during design or development of dwellings intended for consideration by it for OTS purchase.

9.0 EXISTING SATISFACTORY PURCHASES

The Association may acquire existing properties to add to their building stock, this type of purchase is known as an Existing Satisfactory Purchase (ESP).

Property acquired by the Association must be vacant at the time they are offered for sale by the vendor and in an area deemed to have unmet social housing need, refer to:

http://www.nihe.gov.uk/social_housing_development_programme_unmet_need_prospectus_2012.pdf

The Association will only consider buying properties which have a cavity wall construction; this means that we will not buy traditional terraced houses with solid walls. We are unlikely to buy apartments or maisonettes.

The purchase of each property is governed by guidance issued by the Department of Social Development requirements as outlined in the Housing Association Guide (HAG) www.dsdni.gov.uk/ha_guide.

Under this guidance, the Association is permitted to spend up to £10,000 on building works on each ESP property. If the required works exceed this level of expenditure, full rehabilitation standards apply. In both cases contractors will be appointed from the Framework outlined in Paragraph 10

10.0 FRAMEWORK AGREEMENTS FOR CONTRACTORS FOR MAJOR AND MINOR WORKS

10.1 The following Framework Agreements will be procured following an OJEU compliant process to ensure that all major and minor works contracts comply with the Housing Association Guide for works to existing dwellings owned and managed by the Association:

- (1) Framework Agreement for General Building Works;
- (2) Framework Agreement for Electrical Works;
- (3) Framework Agreement for Mechanical Works; and
- (4) Framework Agreement for Painting & Decorating

Framework Agreements (1) to (4) above will be used to procure all Major and Minor Works including all planned and cyclical maintenance programmes.

10.2 All other specialist works will be procured in accordance with Section 7.1 and 7.2 above. In exceptional circumstances, Single Tender Action may be justified if the type of works or service is proprietary or in the event of an emergency situation.

11.0 SPECIALIST CONTRACTORS

11.1 The Association will place an advertisement on the Association's website and, where appropriate, in OJEU for these categories of work from which a select list will be compiled. Contractors appointed to a select list must comply with the essential criteria listed at Section 7.1 above and their appointment will be approved by the Development Committee.

12.0 RESPONSE MAINTENANCE

The Association will advertise on the Association's website and, where appropriate, in the OJEU seeking contractors who can meet the requirement listed at 7.1 in addition to the following criteria:

Appointment of contractors procedure

- (i) the capacity and organisation to provide a 24 hour on call service, 7 days per week;
- (ii) the capacity to complete maintenance work within the Association's specified time frames for immediate, emergency, urgent and routine repairs;
- (iii) the skills, experience and professional qualifications to deal with any maintenance issue including building works, mechanical and electrical services and gas installations;
- (iv) adequate administrative support at a central office and a willingness to consider developing IT systems compatible with those of the Association.

In addition to demonstrating compliance with the above criteria firms will be asked to tender on a quality/price basis with the pricing element based on the National Housing Federation (NHF) Schedule of Rates. The contractor must operate within the Association's Code of Conduct for Contractors.

Because of the key nature of this response service Apex will keep the contractors performance under continual review and if poor response or performance becomes an issue, the Association will terminate the contract and consider either utilising other firms from the original tenders subject to updated references or re-advertise in the Association's website and, where appropriate OJEU.

13.0 FORM OF CONTRACT

Based on legal advice, it is recommended that the JCT Measured Term Contract 2011 Edition (with an appropriately drafted schedule of amendments) is likely to be the form of contract best suited to the Association's requirements for the provision of the response maintenance service.

Revision status

Issue No.	Section	Description of Change	Changed By	Date
1	All	First issue		Feb 1996
2	All	Revised		Jan 2009
3	All	Format revised to match ISO procedures. Reference to HA guide and Scheme Audit Checklist added.	T Doherty	15 Nov 10
4	All	Section 10, Response maintenance section removed, as not applicable to department. North & West replaced by Apex.	T Doherty	14 Dec 10
5	7 and 8	Procedure revised to reflect current practice	T Doherty	12 Apr 11
6	All	Procedure revised to reflect current practice	T Doherty	14 Nov 12
7	8.0	Form of contract revised	T Doherty	24 Nov 15
8	All	DSD updated to DfC	T Doherty	23 Aug 17
9	All	Procedure reviewed. No change. Next review date updated.	T Doherty	20 Nov 18
10	All	Procedure updated to reflect current practice.	T Doherty	02 Dec 20

Next Review: December 2021