

Date: 21 September 10
Consultation: Revised Procurement Section of the Housing Association Guide

Introduction

The Northern Ireland Federation of Housing Associations (NIFHA) represents registered and non-registered housing associations in Northern Ireland. Collectively, our members provide 34,000 good quality, affordable homes for renting or equity sharing. Further information is available at www.nifha.org

General Comments

The Northern Ireland Federation of Housing Associations welcomes the opportunity to respond, on behalf of our members, to the proposed changes to the Housing Association Guide. We note the 12 guiding principles to govern the administration of public procurement and consider them to be standard good practice to be used by our members.

NIFHA would welcome your comments on our belief that Housing Associations should not be included in EU procurement rules. According to the consolidated directive of 2004, EU procurement rules apply to “bodies governed by public law”, these are defined as:

Any corporation established ...for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character and:

- financed wholly or mainly by another contracting authority;
- subject to management supervision by another contracting authority; or
- more than half the board of directors or members of which ...is appointed by another contracting authority.

In order to qualify as bodies governed by public law, Housing Associations need to meet all the criteria above, which the Federation does not believe it does.

Furthermore the Central Procurement Directorate Public Guidance note 03/10 Procurement Control Limits states at paragraph 2.3 & 2.4 that public procurement policy only applies to those public bodies listed in Annex A i.e. the list of public bodies to which procurement policy applies: Housing Associations are not mentioned on this list and we therefore query why they are subject to current Government procurement policies.

Paragraph 2.4 also states that the limits apply “to those bodies to which this element of Public Procurement Policy applies as a condition of grant or financial support”; this may be interpreted by NIFHA as public procurement policy applying only to those activities funded by HAG and not all goods and services.

As Housing Associations are not considered to be public bodies, in many cases, they are not able to access procurement policy guidance notes updates, nor do they have service level agreements with CPD or CoPE and they cannot take advantage of the government public procurement card for payment. Therefore it seems that Housing Associations may be treated as public bodies in some instances but may not be in others where it may be to their advantage.

Specific Comments

The Procurement Strategy was previously part of the Development Guide i.e. as Appendix 2 to Part 4. The Federation needs to clarify if the draft Guide is a standalone document for all procurement purposes or if it is still part of the Development Guide.

Table 12 Number and Type of Consultants

The table outlines the consultant appointments that should be in place for the different types of schemes. NIFHA suggests that the Guide should contain a clause stating that the number of consultants appointed should be proportional to the size and complexity of the scheme.

Concerns have been raised by our members that on-cost levels for fees may only reflect those that are specifically outlined in Table12 i.e. that in some cases fees may only be paid for an architect and quantity surveyor whereas in reality engineers need to be appointed also.

Full rehabilitation of a house, can on many occasions, require the same level of expertise as building a new house. Therefore the same number of consultants should be allowed for when procuring their services.

Table 13 Tender Quality and Price Evaluation

Table 13 states that tenders must be evaluated on quality and price. Our members need to be clear on whether there is a standard template for evaluating this or is it scheme specific with each scheme requiring a different quality and price evaluation. Whilst both have implications for our members, the latter would require significant input from Housing Associations in terms of time to develop the qualitative questions and answers and time to evaluate the responses against a predetermined evaluation framework.

NIFHA considers that this is too detailed when applied to smaller schemes, for example some of our members have recently tendered for cyclic electrical inspections of their stock. In some cases the tender was less than £10,000, would these schemes or schemes similar to these require evaluation with respect to both quality and price? The Federation considers that this is

another area where the Guide needs to be explicit regarding proportionality; we suggest that a quality / price evaluation should only be required where the tender amount is estimated to be above a certain threshold. The threshold could be £30,000 to bring it into line with the requirement for competitive tendering for estimated works costs above this amount.

Smaller contractors, whilst they may not on occasion be able to avail of the economies of scale, are sometimes more suited to undertaking the work required in small schemes. However, they may not always be able to effectively complete the qualitative evaluation aspect of the tendering documents. This may leave the smaller contractor at a disadvantage when compared to larger contractors who may have gained or have “bought in”, specialist expertise in this area. The DSD would therefore need to explore the equality implications surrounding Associations meeting this requirement, as in some areas it may be perceived to have a negative impact on one group of people.

I hope you find these comments useful

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