

**Date:** 27 February 2009  
**Consultation:** Committee for Finance and Personnel: Scrutiny of Public Procurement Practice in Northern Ireland

## Introduction

The Northern Ireland Federation of Housing Associations (NIFHA) represents 40 housing associations. This includes 33 of the associations registered and regulated by the Department for Social Development (DSD).

Collectively, these associations provide 30,000 good quality, affordable homes for renting or equity sharing. They also develop 1,000 – 1,500 new homes each year and, often working in partnership with more specialised voluntary organisations, provide housing support services to thousands of tenants.

Further information is available at [www.nifha.org](http://www.nifha.org)

## Background

At one and the same time, housing associations are voluntary organisations, social enterprises and part of the small business sector.

Housing associations are perhaps unique in the voluntary sector because they have experience of public procurement from two contrasting perspectives:

- like many other voluntary organisations, housing associations may submit tenders for public contracts
- in addition, they invite tenders for multi-million pound contracts for the construction of social housing, aided by grants of approximately 65% from the public purse.

Our evidence considers each of these aspects in turn.

### A. Experience Gained from Submitting Tenders for Public Contracts

A1. Public procurement policy is complex and more training is required to enable all the relevant stakeholders, including housing associations, to understand the relevant principles, rules, procedures and terminology.

A2. Housing associations have been awarded public contracts through a variety of methods. In the case of the Health and Social Care sector, for example, sometimes a housing association has been directly appointed on the strength of its track record while in other cases the appointment is made after expressions of interest, pre-qualification and the evaluation of tenders involving quality as well as price. The procurement rules for the local authorities seem to be different from those of central government and its agencies.

A3. We are unaware of any public procurement exercises in N Ireland that have included social or environmental clauses. This may be due to a lack of self-confidence on the part of the procuring authority.

A4. We understand that authorities procuring goods or services below £100,000 may legitimately allow social enterprises to re-tender if price is the only factor that differentiates their tender from another. Such a rule should be better publicized and used.

A5. We endorse the comments made by NICVA and the Social Economy Network that the pre-qualification criteria are often set in ways that effectively preclude smaller organisations.

## **B. Experience Gained from Inviting Tenders for Grant-Aided Contracts**

B1. Housing associations registered by the Department for social Development (DSD) are eligible to receive capital grants of about 65% towards the construction of social rented housing. For many years housing associations have procured individual housing contracts by inviting competitive tenders from competent builders.

B2. In 2006 the DSD informed us that, because the grant is more than 50%, housing associations would be required to comply with public procurement policy when they undertake this activity. This was set out in the DSD's Strategy for Procurement of the Social Housing Development Programme, published in October 2008. It states that housing associations will only be allowed to develop grant-aided homes if they are members of one of four procurement consortia that establish frameworks and let building contracts after "mini competitions" between the contractors admitted to the relevant framework. The contractors in the frameworks can therefore expect much more continuity of work than would otherwise be the case. Each framework is expected to last 3-5 years and the Strategy implicitly assumes that sufficient grant and private finance will be available throughout the life of the framework. The Strategy also envisages that, within a few years, commodities and services purchased by housing associations will also have to be procured through the procurement consortia and frameworks.

B3. The Federation's members have formed four consortia and are working constructively to make a success of the Strategy but feel that the implementation plan should be re-considered in the light of the following important factors:

- (a) the assured grant budget for the next two financial years cannot support the scale of development programme envisaged when the Strategy was devised
- (b) the building industry is severely depressed and contractors not admitted to frameworks may consider they have little to lose by mounting legal challenges to the selection process. This could cause serious delays and high costs

(c) in normal market conditions, it is difficult for half a dozen housing associations in a consortium to assemble enough housing projects at roughly the same time and in the same general area to confidently set up a framework.

B4. The Federation therefore believes it would be wise for the DSD to consider starting its procurement strategy with maintenance and improvement work, which obviously involves known property and is funded by associations themselves. In addition, other existing procurement initiatives involving housing associations and certain public bodies could be further developed in an organic manner.

B5. The DSD should also recognise the VAT, TUPE and other implications of its preference that procurement consortia should establish legally-constituted entities to undertake the procurement function.

B6. Associations should be permitted to set a fair price and appoint firms (e.g. for maintenance) on the basis of quality of service.

B7. For certain specialized work, only small firms may be able and willing to do it. The procurement system should make allowance for this factor.

**Submitted on behalf of NIFHA by:  
Christopher Williamson  
Chief Executive**