

# **DERBY HOMES**

## **PROCUREMENT PROCEDURE RULES**

### **INDEX**

#### **INTRODUCTION**

- PPR01    DEFINITIONS AND INTERPRETATION**
- PPR02    FINANCIAL REGULATIONS**
- PPR03    COVERAGE/COMPLIANCE**
- PPR04    EXCLUDED AREAS**
- PPR05    WAIVER**
- PPR06    SCHEME OF DELEGATION**
- PPR07    LEGAL REQUIREMENTS**
- PPR08    CONTRACT VALUE**
- PPR09    APPROVED LISTS**
- PPR10    TENDER / QUOTATION**
- PPR11    PRE-TENDER DISCUSSIONS**
- PPR12    CONTRACTS LESS THAN £1,000**
- PPR13    CONTRACTS BETWEEN £1,000 AND £50,000**
- PPR14    CONTRACTS OVER £50,000**
- PPR15    OPEN TENDERING PROCEDURE**
- PPR16    RESTRICTED TENDERING PROCEDURE**
- PPR17    NEGOTIATED / COMPETITIVE DIALOGUE TENDERING  
PROCEDURE**
- PPR18    EXCEPTIONS TO REQUIREMENTS TO INVITE TENDERS**

- PPR19 SUBMISSION OF TENDERS**
- PPR20 COLLUSIVE TENDERING CERTIFICATE**
- PPR21 OPENING OF TENDERS**
- PPR22 TENDER EVALUATION**
- PPR23 ALTERATIONS TO RECEIVED TENDERS**
- PPR24 POST TENDER / QUOTATION NEGOTIATIONS**
- PPR25 AUTHORITY TO ACCEPT QUOTATIONS AND TENDERS**
- PPR26 AWARD**
- PPR27 SEALING / SIGNING OF CONTRACTS**
- PPR28 CONTRACTS RECORDS AND THE RETENTION OF THE  
CONTRACT FILE**
- PPR29 EXTENSION OF CONTRACT**
- PPR30 CONSULTANTS**
- PPR31 INFORMATION TECHNOLOGY**
- PPR32 SECURITY / GUARANTEES**
- PPR33 DECLARATIONS OF INTEREST EMPLOYEES AND  
CONSULTANTS**
- PPR34 FREEDOM OF INFORMATION ACT**

## **INTRODUCTION**

Where Derby Homes is procuring on behalf of Derby City Council, Derby City Council Contract Procedure Rules apply rather than these Rules.

The purpose of these Rules is to set clear procedures for the procurement of goods, materials, works and services in accordance with Derby Homes' procurement policy.

Procurement must deliver Best Value for Derby Homes, safeguard Derby Homes' interests and meet Derby Homes' policy commitments.

## **PPR01 - DEFINITIONS AND INTERPRETATION**

Approved List	means a list of approved contractors and/or suppliers compiled by the Procurement Officer and approved by the Chief Executive or Director & Company Secretary of Derby Homes.
Authorised Employee	means an employee of Derby Homes Limited to whom a Chief Officer has delegated authority under these Rules.
Best Value	means evaluations that balance quality and cost considerations, and is achieved with regard to economy, efficiency, effectiveness, equal opportunities, and sustainable development.
Board	means the Board of Derby Homes.
Budget Manager	means the Employee who is responsible for the budget for the relevant contract.
Business Processing Team	means the team in Derby Homes responsible for the processing of orders and accounts payable.
Chief Officer	means the Chief Executive, or Director of Derby Homes Limited who has delegated responsibility from the Board, under these Rules.
Contract File	means a record of all matters relating to a contract.
Custody Employee	means an employee to whom the Chief Officer has delegated authority to be responsible for the custody, opening and recording of tenders.
Derby Homes	means Derby Homes Limited.
Design Contest	means a process where there is a significant design element (e.g. planning or architectural design).

EC Contract	means a contract caught by the full tendering requirements of Public Contracts Procurement Regulations 2006 or any amendment or re-enactment of these regulations.
Financial Regulations	means the parts of Derby Homes' financial regulations relating to contracts.
Firm	means any individual, partnership or limited company, which Derby Homes Limited may procure services or goods from.
FOI	means the Freedom Of Information Act 2000.
Legal Advisor	means any organisation or individual engaged by Derby Homes to provide legal assistance and advice.
OJEU	means the Official Journal of the European Union.
Procurement Office	means an Employee within Derby Homes who the Chief Executive has appointed to act and advise on all matters relating to procurement.
PQQ	means Pre Qualification Questionnaire.
Rules	mean these Procurement Procedure rules.
Scheme of Delegation	means the list that is part of the Financial Regulations, identifying budget and sign off responsibilities.
Works Contract	means a contract that involves construction buildings, infrastructure, demolition, general building and civil engineering work, services and general completion work (e.g. joinery, decorating).

The Procurement Officer will advise on the implementation and interpretation of these Rules and their views will be binding.

## **PPR02 - FINANCIAL REGULATIONS**

These Rules must be read in conjunction with the Financial Regulations, with particular reference to Regulations E and H.

### **PPR03 - COVERAGE / COMPLIANCE**

Every contract made by Derby Homes must comply with these Rules, unless a waiver is given under PPR05, and each Authorised Employee shall ensure that contracts let by them, do so comply.

It must be a condition of any contract between Derby Homes and anyone who is not an Employee of Derby Homes, but who is authorised to carry out any contract functions (such as a surveyor, contractor or consultant) that they comply with these Rules and the Financial Regulations.

All contraventions of these Rules must be reported to the Procurement Officer.

### **PPR04 - EXCLUDED AREAS**

The only exemptions from these Procedural Rules are

- Sale or purchase of land
- Leases, licences, easements or similar rights over land
- Personal contracts of employment
- Service Level Agreements with Derby City Council.
- Goods purchased at public auction
- Utilities
- Procurements made through or on behalf of any consortium, provided that EC legislation is adhered to at all times.

### **PPR05 - WAIVER**

Where the Authorised Employee considers it necessary to make an exception to these Rules they shall arrange for a waiver request to be submitted seeking the approval of the Chief Officer.

The Chief Officer may grant a waiver from any of the provisions of these Rules, except EC Contract requirements, if they are satisfied that;

- the waiver is justified
- only those Rules, which are relevant to the special circumstances, are being waived.

A written record of any waiver must be kept on the Contract File. The record must include justification for the waiver and, where relevant, the circumstances requiring urgent action. A report of all waivers will be submitted to the Resources and Remuneration Committee annually.

The Procurement Officer shall maintain a register of all waiver requests, along with their outcomes.

## **PPR06 - SCHEME OF DELEGATION**

The list of Authorised Employees must be maintained in the form of a register and detail the names and grades of employees approved for the purpose of price testing, tendering and entering into contracts and placing orders on behalf of Derby Homes, and the maximum contract value allocated to each employee for these purposes.

The Chief Officer will nominate an Employee to be responsible for compiling and maintaining a list of Authorised Employees.

## **PPR07 - LEGAL REQUIREMENTS AND EC CONTRACTS**

Every contract must be let in accordance with all legislative requirements and these requirements must prevail in the case of any conflict with these Rules.

Contracts for goods or services with a value currently of **£143,371** or more, and for works contracts currently valued at **£3,611,319** or more, will be subject to the requirement of EC legislation. These thresholds are set by the EC and are expressed in sterling. These thresholds (net of VAT) are valid until 31 December 2008. Contact the Procurement Officer for further information.

Before starting to tender contracts above these thresholds, the Authorised Employee must consult the Procurement Officer to ensure compliance with EC Contract Regulations.

The Procurement Officer shall maintain a register of all EC Contracts above the thresholds.

## **PPR08 - CONTRACT VALUE**

All contract values quoted in these Rules must be based on an estimate of the total cost, not the annual cost (net of VAT).

The Authorised Employee will work out this value, and must keep a written record of how it was arrived at, on the Contract File.

The contract value shall not be deliberately underestimated or subdivided in order to avoid the application of these Rules and / or EC Contract Regulations.

## **PPR09 - APPROVED LIST**

Approved Lists must be used if available.

Lists of vetted contractors / suppliers will be compiled by The Procurement Officer for different categories of procurement. Each list shall be divided into categories according to the various types of contractor, supplier or consultant.

The Procurement Officer will have discretion over identifying contractors / supplier's known to be suitable with regard to a particular list and in deciding its final constitution.

To discharge this requirement, the Procurement Officer may use suitable Approved Lists created and maintained by other local authorities or public sector organisations for similar purposes.

Contractors / suppliers will be vetted for financial stability, technical competence, quality, managerial capability and previous performance, health and safety and the ability to meet relevant environmental standards, in accordance with predetermined criteria.

Any approved list having been agreed by the Procurement Officer will be notified to the Resources and Remuneration Committee on an annual basis.

#### **PPR10 - TENDER / QUOTATION**

These Rules distinguish between tenders and quotations and this is done on a value basis. The reason is merely to show that there are different procedures to be followed for contracts under £50,000 and over £50,000.

"Quotation"- means a formal offer to supply or purchase goods or materials, execute works or provide services at a price estimated to be of a value of less than £50,000.

"Tender "- means a formal offer to supply or purchase goods or materials, execute works or provide services at a price estimated to be of a value of £50,000 or more.

#### **PPR11 - PRE-TENDER DISCUSSIONS**

The Procurement Officer may authorise pre-tender discussions with potential tenderers prior to the issue of an invitation to tender where, for example, the technical specification is so complex, that it cannot be drawn up without input from prospective tenderers or an insight is needed into how best to package the contract, in order to get the best response from the market.

No Firm must be led to believe that the information they offer will lead to them being awarded the contract.

A summary record of all such discussions, responses and related meetings, detailing the individuals present, must be made by the Authorised Employee and kept on the Contract File.

## **PPR12 - CONTRACTS LESS THAN £1,000**

Where there is an Approved List in existence it must be used.

Where the product / service cannot be obtained from a firm on an Approved list then the Authorised Employee will obtain three alternative quotations.

If quotations are invited by telephone for procurements less than £1000 the Authorised Employee must keep a written record of the names of the contractors / suppliers contacted and their responses, and the reasons why the successful quote was accepted.

If possible quotes should be confirmed in writing within seven days.

All orders must be placed using official purchase orders, through the Business Processing Team.

## **PPR13 - CONTRACTS BETWEEN £1,000 AND £50,000**

Where the value of a contract is estimated to be between £1,000 and £50,000 the Authorised Employee must write a specification.

In addition they must seek at least three quotations in writing from contractors / suppliers included in the relevant Approved List or if no such list is available;

- Use the open tendering procedure (PPR15)
- or
- invite at least three tenders from Firms known to supply these types of goods / services using the restricted tendering procedure (PPR16).

The Authorised Employee must keep a record of the suppliers / contractors who have been invited to quote, and the reasons why the successful quote was accepted.

The Procurement Officer must be informed in all cases where less than three quotes are submitted, and their approval must be obtained before the contract is awarded.

All written quotations between £1,000 and £50,000 must be returned to the Business Team and a copy forwarded to the Procurement Officer.

All orders under £50,000 must be placed using official purchase orders, through the Business Processing Team.



## **PPR14 - CONTRACTS OVER £50,000**

Where the value of a contract is estimated to exceed £50,000 the Authorised Employee must write a specification.

In addition they must:

- Use the open tendering procedure (PPR15)  
or
- invite at least six tenders from Firms known to supply these types of goods / services using the restricted tendering procedure (PPR16)

The Authorised Employee must keep a record of the suppliers / contractors who have been invited to tender, and the reasons why the successful tender was accepted.

The Procurement Officer must be informed in all cases where less than three tenders are submitted, and their approval must be obtained before the contract is awarded.

All tenders £50,000 or over must be formalised under a contract approved by the Procurement Officer.

## **PPR15 - OPEN TENDERING PROCEDURE**

Where tenders are to be invited by public notice, notice will be advertised on an appropriate local web site or publication approved by the Procurement Officer.

In addition, if the estimated value of the contract exceeds £100,000 the notice will also be placed on an appropriate national or European web site or publication approved by the Procurement Officer.

Where required, adverts will be placed in the Official Journal of the European Union (OJEU) after consultation with the Procurement Officer.

All notices must specify brief details of the subject matter of the contract, how tender documents may be obtained and the tender closing date.

All contractors / suppliers expressing an interest in response to an advertisement must be invited to tender.

## **PPR16 - RESTRICTED TENDERING PROCEDURE**

Under the restricted tendering procedure:

Where notices for application to tender are to be invited, notice will be advertised on an appropriate local web site or publication approved by the Procurement Officer.

In addition, if the estimated value of the contract exceeds £100,000 the notice will also be placed on an appropriate national or European web site or publication approved by the Procurement Officer.

Where required, adverts will be placed in the Official Journal of the European Union (OJEU) after consultation with the Procurement Officer.

Details must be included in the notice specifying how such expressions of interest are to be submitted and the closing date for their receipt.

Any Firm who expresses an interest will be sent a Pre Qualification Questionnaire (PQQ), which must be completed and returned by a given date.

The criteria, which are to be applied in evaluating the PQQ, must be recorded in writing before the PQQ is sent to the interested Firms.

After the completed PQQ's have been received, the Authorised Employee and any other Employees as appropriate, having regard to the subject matter and likely value of such type of contract, must evaluate them and select the relevant number of Firms to tender in accordance with PPR14.

All contractors / suppliers who meet the PQQ evaluation criteria must be invited to tender.

## **PPR17 - NEGOTIATED / COMPETITIVE DIALOGUE TENDERING PROCEDURE**

The negotiated or competitive dialogue procedure may only be used where the Authorised Employee can show that;

- One of the procedures used in Contract Procedure Rules has been used and resulted in unacceptable or irregular tenders or no tenders or no appropriate tenders;  
or
- Exceptionally where the nature of the procurement or risks involved does not permit prior overall pricing;  
or
- The nature of the procurement is such that a precise specification cannot be drawn up;  
or
- A design contest is appropriate to the scheme.

Prior to using either of these procedures, the Authorised Employee must contact the Procurement Officer for advice, before submitting a report for consideration to the Chief Officer, setting out why the Authorised Employee considers it appropriate to use this procedure having regard to the above criteria and will not proceed, without having obtained the Chief Officer's written agreement.

A copy of the Authorised Employees report signed by the Chief Officer must be given to the Procurement Officer.

### **PPR18 - EXCEPTIONS TO REQUIREMENTS TO INVITE TENDERS**

Nothing in these Rules will require competitive tenders to be invited if in the written opinion of The Procurement Officer:

- the goods or materials can only be sold at a fixed price and no reasonably satisfactory alternative is available
- the price of the goods or materials is wholly controlled by trade organisations or government rules and no reasonably satisfactory alternative is available
- by reason of the specialist nature of the work, restricted source of the goods or materials, services of a professional or technical nature, or for other reasons there would be no genuine competition
- the work to be executed or the goods, materials or services to be supplied constitute an extension of an existing contract, providing that such an extension has received the necessary approval from the Chief Officer
- the contract is for the execution of work or the supply of goods or materials certified by the Chief Officer and as being required so urgently as not to permit the invitation of tenders
- Derby Homes will be a party in common with other local authorities as part of a consortium or under a standing offer arrangement, or where a central government procurement scheme is utilised and the consortium has its own contract procedure rules or similar procedures
- the contract is for the instruction of Counsel, external legal advisers or medical experts.

None of these exemptions will apply if they contravene any statutory or EC Contract Regulations.

Any exemption agreed to under this rule, must be endorsed by the Chief Officer in writing before being actioned.

## **PPR19 - SUBMISSION OF TENDERS**

If these Rules require an invitation to tender to be made, all invitations to tender will state that:

- the tender must be returned in the envelope provided by Derby Homes for that purpose
- the tender envelopes will be sealed and either sent by post or delivered by hand
- no tenders received after the closing date and time for the receipt of tenders, will be considered unless it can be proved that the tender was delayed solely within Derby Homes offices, through no fault of the Firm, and arrived in the offices before the deadline
- proof of posting will not be accepted as proof of delivery.

## **PPR20 - COLLUSIVE TENDERING CERTIFICATE**

In every tender submitted to the Derby Homes the contractor / supplier must be required to certify that:

- it has not colluded with any person with regard to the amount of, or the submission or non submission of any tender; and
- it is not a member or any cartel or party to any agreement whatever aimed at or having the effect of fixing or controlling prices.

## **PPR21 - OPENING OF TENDERS**

The Authorised Employee inviting the tenders must make arrangements for the receipt, custody and opening of tenders.

On receipt, tender envelopes must be marked with the date and time and be signed by the Custody Employee.

The tender envelopes must remain in the custody of the Custody Employee until they are opened.

Tenders, other than late ones must be opened:

- only after the deadline for tender submissions
- at the same time and place
- in the presence of the Authorised Employee and at least one other employee involved in inviting the tenders.

The Custody Employee must at the time of opening tenders record the following details: the date, time, the name of each Firm and its bid and persons present at the tender opening must sign this record after the last Firm's name to prevent any addition to the record.

The reason for rejecting any tender, for example because it is late, must be recorded by the Custody Employee.

## **PPR22 - TENDER EVALUATION**

The evaluation criteria must be predetermined and listed in the invitation to tender documentation, in order of importance if applicable. The criteria shall be designed to achieve Best Value for Derby Homes.

All tenders must be evaluated in accordance with the evaluation criteria notified to Firms in the invitation to tender.

The evaluation criteria must be strictly observed at all times throughout the contract award procedure by any employee involved in the tender evaluation.

Where more than one tender is received, the Authorised Employee and tender evaluation team must accept the tender which delivers Best Value for Derby Homes in accordance with the evaluation criteria. Tender Evaluation Team means group of employees who evaluate the tender submissions.

## **PPR23 - ALTERATIONS TO RECEIVED TENDERS**

Tenders may not be altered after the tender closing date except:

- (1) where an arithmetical error is discovered before the tender is accepted; then the Authorised Employees may, at their discretion either:
  - tell the tenderer of the arithmetical error and give them the opportunity to either confirm without amendment or withdraw their tender
  - or tell the tenderer of the error and give them the opportunity to correct the error (the approval of The Chief Officer must be granted before this option can be used)
- (2) where post tender negotiation is undertaken in accordance with these Rules.

## **PPR24 - POST TENDER / QUOTATION NEGOTIATIONS**

Negotiations after receipt of tenders and quotations and before the letting of the contract may be appropriate in special circumstances.

It is intended to obtain an improvement in the content of the tender or quotation in circumstances which do not put other tenderers at a disadvantage, distort competition or affect trust in the tender process.

Negotiations must not take place on price alone and must consider best value for Derby Homes.

Negotiations may only be undertaken in accordance with the following conditions:

- the Chief Officer must seek the advice from the Procurement Officer on post-tender negotiations
- the negotiations must be conducted by a team of at least two Employees approved by the Chief Officer
- the Procurement Officer must keep a written record of the special circumstances and of the negotiations.

#### **PPR25 - AUTHORITY TO ACCEPT QUOTATIONS AND TENDERS**

Written permission for expenditure must be sought from the Budget Manager prior to the contract award and where the contract or quote exceeds £10,000 or, where it is proposed to accept a tender which is not the lowest price, written permission must also be sought from the Chief Officer.

#### **PPR26 - AWARD**

The award of a contract should not rely solely on price and must always reflect Best Value for Derby Homes.

The Authorised Employee must, in all cases, record on the contract file the reason for selecting the successful quotation/tender.

The Authorised Employee must make sure that evidence of the authority to spend is recorded on the Contract File.

Where the contract is an EC contract subject to the OJEU process, a standstill period of at least ten calendar days must elapse between, the date of dispatch of a contract award decision to all short-listed firms, and the date on which Derby Homes proposes to enter into a contract with the successful Firm. In accordance with this procedure:

- the Authorised Employee must write to all Firms invited to tender, notifying them of the decision and intention to award the contract and will provide the name of the successful firm and the score for each of the tenderers
- no information other than that referred to above must be disclosed to Firms or any other external body at this time

- providing that no challenges are raised the contract can be awarded after 15 days. If a challenge is raised the Procurement Officer should be consulted
- the Authorised Employee must send a Contract Award Notice to the OJEU within 48 days of the award of an EC Contract and send a copy to the Procurement Officer.

For non EC contracts:

The Authorised Employee must write to all Firms invited to tender within 21 days of the award of the contract, telling them the name of the successful Firm and score for each tender.

No information other than that referred to above must be disclosed to Firms or any other external body at this time.

#### **PPR 27 - SEALING/ SIGNING OF CONTRACTS**

All contracts over £10,000 and all contracts under seal, whatever their value, must be submitted to the signing / sealing by the Chief Officer, together with details of the approval to spend.

All contracts under £10,000 must be authorised as per the Scheme of Delegation.

After sealing/signing the Contract File must be given to the Procurement Officer for logging.

#### **PPR 28 - CONTRACT RECORDS AND THE RETENTION OF THE CONTRACT FILE**

The Procurement Officer must keep a written register of all contracts.

The details to be kept in the register include:

- the date and duration of the contract
- the name of the contractor
- brief details of the nature of the contract
- the value of the contract.

Contracts made under seal must be safely retained for twelve years from the date of sealing and other contracts must be safely retained for six years from the date of signing.

The Contract File must be retained for one year following the payment of the final account on the contract.

## **PPR29 - EXTENSION OF CONTRACT**

Prior to the conclusion of the contract, an extension of up to two years duration may be offered provided that the Authorised Employee provides to the Procurement Officer and Budget Manager evidence that the Firm has performed the duties of the contract to a suitable standard, and it can be shown that value for money is being obtained.

The extension may be either as a single year or two years but the sum of all extensions cannot exceed a total of two years.

The extension must be within the terms and conditions of the original contract unless the Board agrees otherwise.

## **PPR30 - CONSULTANTS**

The appointment of consultants must be in accordance with these Rules.

A consultant is defined as an individual or organisation involved in providing expert analysis and advice or in the undertaking of a specific task where no capacity exists in house or involving skills or perspectives which would not normally be expected to reside within Derby Homes.

The Authorised Employee must ensure that every consultant who is responsible to Derby Homes for the preparation and/or supervision of a contract on its behalf, or for any other form of consultancy work shall:

- comply with these Rules
- produce to an Internal Audit Manager all the records maintained by him in relation to the contract following a reasonable request
- transmit, on completion of a contract, all such records to the Chief Officer
- demonstrate adequacy of insurance cover, having regard to the nature of the work to be involved and the conditions of the contract into which Derby Homes will enter.

## **PPR31 - INFORMATION TECHNOLOGY**

For information technology purchases estimated to be over £500, advice must be sought from the IT Manager of Derby Homes.

The purchase of any computer hardware or software, whatever the value, which is to be linked to the organisations networks must have the prior written approval of the IT Manager.

All procurements of computer hardware or software must follow advice on such contracts issued by the Procurement Officer.



## **PPR32 - SECURITY / GUARANTEES**

Where a contract for works or services is estimated to exceed £100,000, Chief Officers must, unless they are using an Approved List to invite tenders, carry out a risk assessment and must give consideration to securing the due performance of the contract in one or more of the following ways:

- a retention of a percentage of the sums payable until the works or services have been satisfactorily completed
- the provision of a performance bond or parent company guarantee
- use of the contract guarantee reserve fund.

The Legal Advisor must approve the form of any bond or guarantee and the size of the bond must be agreed with the Chief Officer.

The Chief Officer must be consulted before a parent company guarantee is accepted.

## **PPR33 - DECLARATIONS OF INTEREST: EMPLOYEES AND CONSULTANTS**

Employees must declare in writing any material interest, which may affect the contract process.

Personnel must keep completed employee declarations of interest on the individual's personal file. The Chief Officer must keep a register of employee declarations.

Chief Officers must make sure consultants appointed by them make declarations of interest and that a record is kept on the Contract File and a register of consultants' declarations.

## **PPR34 - FREEDOM OF INFORMATION ACT**

The FOI provides a right of access to recorded information held by Derby Homes including information about its procurement activities. Whilst certain exemptions are allowed Derby Homes will maintain a presumption of disclosure, unless to do so is not in the public interest.

Derby Homes' policy on FOI should be adhered to at all times, but with regard to procurement the Authorised Employee should ensure that, under the direction of the Procurement Officer, the following information is available to suppliers or other persons on request:

- selection criteria
- award criteria

- relative weightings of all criteria
- debriefing arrangements
- documents required under EU directives e.g. award notice.

Notwithstanding the FOI, good procurement practice requires that suppliers are kept informed of all pertinent facts relating to the tender and contract. The Authorised Employees should therefore:

- inform all applicants for tenders or purchase enquiries of Derby Homes policy on the FOI and that requirements will be adhered to
- request Firms to identify what they consider to be sensitive information in the materials they provide to Derby Homes
- consult with suppliers on any requests received regarding information provided by them.

A clause should be inserted into tender and contract documents that makes clear Derby Homes' responsibilities under FOI.