

PROCUREMENT STANDING ORDERS

Report of the Director & Company Secretary

1. SUMMARY

- 1.1 The Procurement Standing Orders (Appendix 1) was approved in July 2010 and have been in use since. They are due for review in July 2013.
- 1.2 Since their introduction a number of legislative changes have been introduced. These along with greater use of new procurement techniques and the identification of changes that would allow easier and less bureaucratic ways of implementation has required the Procurement Standing Orders to be re-written.
- 1.3 The new Procurement Standing Orders (Appendix 2) encompass numerous changes and several new sections which cover the issues raised above with processes that should ensure they deliver value for money. The new document also puts in place procedures that ensure greater control and compliance of the procurement processes being used within the organisation.

2. RECOMMENDATION

It is recommended that the Committee recommends to the Board the introduction of the new Procurement Standing Orders.

3. MATTER FOR CONSIDERATION

- 3.1 The new Procurement Standing Orders strive to eliminate any outdated information and has new sections not previously covered by the current rules, for example:
 - Leaseholder legislation
 - Procurement consortium
 - Framework agreements.
- 3.2 A number of changes have been made that require employees to seek approval and/or authorisation before proceeding through a procurement process. The rules also require any employee conducting procurement to provide greater detail and documentation of the actions they wish to take that have the potential to impact on the organisation either financially or operationally.
- 3.3 A number of sections carried forward from the current Procurement Standing Orders have been expanded to provide greater clarity and or explanation of the process to be followed.

- 3.4 Changes have also been implemented following advice from Derby City Council's Internal Audit Team to reduce risks to the organisation where weaknesses have been identified.

4. FINANCIAL AND BUSINESS PLAN IMPLICATIONS

Not having clear Procurement Standing Orders could result in poor purchasing decisions which could have significant financial impact on the organisation.

5. LEGAL AND CONFIDENTIALITY IMPLICATIONS

- 5.1 Derby Homes has a legal responsibility to ensure all procurements comply with European Procurement Regulations. Clear Procurement Standing Orders is required to ensure these responsibilities are met.
- 5.2 The Procurement Standing Orders form part of the Governance Arrangements and therefore require approval of the Board.

6. COUNCIL IMPLICATIONS

The Procurement Standing Orders under consideration apply only to Derby Homes' procurements and therefore there are no known implications for the Council.

7. ENVIRONMENTAL IMPLICATIONS

The Procurement Standing Orders address the issue of procurement on the environment.

8. EQUALITIES IMPACT ASSESSMENT

An equalities impact assessment has not been completed in relation to this document, however, one of the documents main principles is to eliminate discrimination and this is covered within the rules.

9. HEALTH & SAFETY IMPLICATIONS

Health and safety matters are not dealt with specifically in this document but put rules in place that ensure health and safety issues are addressed when carrying out procurement.

10. RISK IMPLICATIONS

Not having clear Procurement Standing Orders could result in poor purchase decisions which could have significant financial and operational impact on the organisation.

11. POLICY REVIEW IMPLICATIONS

This is a key policy of Derby Homes and is scheduled for further review in 24 months.

The areas listed below have no implications directly arising from this report:

Consultation
Personnel

If Board members or others would like to discuss this report ahead of the meeting please contact the author, or Phil Davies, Chief Executive, phil.davies@derbyhomes.org – Phone: 01332 888528

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Background Information: Procurement Standing Orders 2011

Supporting Information: Procurement Standing Orders 2011

Procurement Standing Orders

Derby Homes

From: 1st October 2011

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INTRODUCTION

This document is part of the Derby Homes Constitution which must be complied with at all times.

The Standing Orders have three objectives, to:

- Comply with the laws that govern the spending of public money and to protect individuals from undue criticism or allegation of wrongdoing.
- Secure value for money in the way we spend money, so that we offer best value for services to the public.
- Generate market competition through transparent and consistent ways of working.

The Lead Officer for Procurement is the custodian of the Procurement Standing Orders (PSOs) and is responsible for keeping them under review. If the EU Directives or any other law is changed in a way that affects these PSOs then a revision shall be issued to this document.

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

The Lead Officer for Procurement will advise on the interpretation of these rules, on behalf of Derby Homes, and how they shall be implemented.

PPR1 DEFINITIONS AND INTERPRETATIONS

Accounts Team	means the team in Derby Homes responsible for the processing of orders and accounts payable
Aggregation	means the consolidation of demand for similar goods and services across several points of usage in such a way that a single contract or framework can be put in place
Approved List	means a list of approved contractors and/or Suppliers prequalified for a specific purpose and maintained by the appropriate Category Manager.
Authorised Employee	means an employee of Derby Homes Limited to whom a Director has Delegated Authority under these Rules to conduct procurements or manage contracts; a list of such employees is maintained by the Lead Officer for Procurement.
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 contract
Chief Executive	means the Chief Executive of Derby Homes Limited

Contract File	means a record, either physical or electronic, of all matters relating to a contract maintained by the Category Manager and held in a location known, to the Lead Officer for Procurement
Contract Register	means a record of all contracts in force over £20,000 and their status developed and maintained by the Lead Officer for Procurement
Category Manager	means the manager appointed to monitor spend within an Account Code where an Account Code is the code used within the Finance System to capture relevant spend
Custody Employee	means an employee to whom the Chief Executive has delegated authority to be responsible for the custody, opening and recording of Tenders
Delegated Authority	means an authority given to an Authorised Employee to approve or commit to financial expenditure on behalf of Derby Homes, in accordance with Derby Homes' contracts, up to a specified financial level.
Derby Homes	means Derby Homes Limited
Director	means an executive Director Officer of Derby Homes Limited
EU	means European Union
EU Contract	means a contract above the monetary value threshold specified by the HM Government each year and subject to the requirements of Public Contracts Procurement Regulations 2006 or any amendment or re-enactment of these regulations
Financial Regulation	means the financial instructions as defined in Section PPR2
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
Lead Officer for Procurement	means an Employee of Derby Homes nominated appointed by the Executive Team to act and advise on all matters relating to procurement
Procurement Process	means the series and or sequence of activities which may or may not lead to a contract with a Supplier for goods, services and works.
PQQ	means Pre Qualification Questionnaire

Quotation	means an informal offer to supply or purchase goods or materials, execute works or provide services
Supplier	means any individual, partnership or limited company which may supply to Derby Homes' services or goods
Tender	means a formal offer to supply or purchase goods or materials, execute works or provide services
Rules	mean these Standing Orders related to procurement and contract management
Waiver	means the document recording exceptions to these Rules as set out in section PPR5
Works Contract	means contract where a Supplier is required to construct, repair or remove a permanent structure involving the activities set out and defined by Schedule 2 of the Public Contracts Regulations 2006. For the avoidance of doubt a contract for the repair of equipment within a building would be a service contract as the contract relates to repair of equipment.

PPR2 FINANCIAL REGULATIONS

These Rules must be read in conjunction with financial instructions and other relevant Standing Orders.

PPR3 COVERAGE AND COMPLIANCE

Every Procurement Process undertaken by Derby Homes must comply with these Rules, unless it is an excluded area under PPR4 or a waiver is given under PPR5.

Each Authorised Employee shall ensure that procurement processes managed by them comply with these Rules.

Anyone who is not an Employee of Derby Homes, but who is authorised to carry out any procurement or contract function (e.g. surveyor, contractor or consultant) must comply with these Rules and the Financial Regulations.

All contraventions of these Rules must be reported to the Lead Officer for Procurement who will report the breach to the relevant Head of Section to take the appropriate action.

PPR4 EXCLUDED AREAS

The following categories of procurement and contract management are exempt from these Standing Orders:

- Contracts for the acquisition or lease of land and/or real estate;
- Contracts for permanent or fixed term employment;
- Works or Orders placed with utility companies (e.g. re-routing pipe work);
- Works or Orders placed under an existing signed Framework Contract or in favour of a previously approved provider;
- Services to be delivered by a Derby City Council's in-house service.

- Direct Payments to citizens following care assessment, for example, payments provided under Self Directed Support or individual budgets
- A declared emergency as defined by the Civil Contingencies Act 2004 and authorised by the Derby City Council Emergency Planning Officer.
- Service or Operational Level Agreement entered into with Derby City Council or other public bodies
- Procurements and contract management activities undertaken as part of a wider collaboration or a public sector consortium where the governing procedures of the body entering into the contract shall prevail, unless Derby Homes leads such an activity in which case, for the avoidance of doubt, these Standing Orders shall apply.

The lead officer for Procurement must be advised in writing of any procurement that falls within the above excluded area category.

PPR5 EXCEPTIONS AND WAIVER

The PSOs are mandatory and must be adhered to at all times. Failure to anticipate the need for a contract and to plan accordingly is not, in law, seen as a suitable reason to circumvent good procurement practice.

No exceptions shall apply if they contravene any statutory or EU Contract Regulations.

Nothing in these Rules should inhibit competitive procurement unless it is the view of the Lead Officer for Procurement that:

- 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 or services of a professional or technical nature, or for other reasons there would be no genuine competition;
- 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 Executive;
- 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.

The Lead Officer for Procurement must approve in writing any procurement that is categorised as an exception to the rules as specified above.

Where the Authorised Employee considers it necessary to make any exception to these Rules that is not specified above he/she shall arrange for a Waiver request in accordance with the proforma set out in the companies controlled documents which will be approved by the Lead Officer for Procurement and then submitted to the Chief Executive Officer for authorisation.

The Chief Executive may grant a Waiver if satisfied that:

- Waiver is justified;
- The Lead Officer for Procurement has approved the waiver and the Authorised Officer has adequately recorded the circumstances and reason for requesting the waiver;
- The specific Rules from which a waiver is sought are identified and recorded by the Lead Officer for Procurement;

- Risks are known, understood and documented;

The Lead Officer for Procurement shall maintain a register of all Waiver requests, along with their outcomes. A report of all Waivers shall be submitted to the Resources, Remuneration and Regeneration Committee annually.

A copy of each waiver request should also be placed in the relevant contract file should one exist by the appropriate Category Manager.

PPR6 SCHEME OF DELEGATION

Authorised Employees are approved to undertake the following activities on behalf of Derby Homes:

- Price testing;
- Tendering;
- Entering into contract;
- Managing contracts;
- Placing orders.

A register of Authorised Employee's shall be created and maintained by the Lead Officer for Procurement and shall contain:

- Employee title;
- Maximum monetary commitment;
- Permitted activity;
- The signature and date of the Chief Executive Officer.

The register shall be inspected and reviewed by the Resources and Remuneration Committee annually.

PPR7 LEGAL REQUIREMENTS

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

PPR8 CONTRACT VALUE

Authorised Employees conducting a Procurement Process must estimate the value of the contract over its life time. Should this value be in excess of £30,000 a contract file should be created and the contract value estimate recorded within it.

Contract value shall not be deliberately underestimated or subdivided in order to avoid the application of these Rules.

A contract with an estimated value over the EU 'threshold or where a series of contracts or a renewable contract (aggregated) is entered into for supplies/services of the same type (account should be taken, for instance, of whether they would normally be ordered together and/or from the same Suppliers) is subject to Public Procurement Regulation and deemed an EU Contract. The monetary threshold is set periodically by the EU and ratified by the UK Government. The Lead Officer for Procurement should be consulted for the current threshold.

Derby Homes has identified three approaches to procurement depending upon Contract Value:

- EU Contracts – greater than the EU threshold - see section PPR11;
- Strategic DH Contracts – greater than £30,001 a year and no more than the EU threshold – see section PPR12;

- Tactical Purchases – less than £30,000 a year – see section PPR13.

Authorised Employees shall, depending upon the value of contract, conform to the relevant contracting and contract management procedure.

Before commencing a Procurement Process for either EU Contracts or Strategic Derby Homes Contracts the Authorised Employee must consult the Lead Officer for Procurement to discuss the contract value, the type of contract to be procured and the practices and procedures to be adopted.

PPR9 PRE-TENDER DISCUSSIONS

The Lead Officer for Procurement may authorise pre-Tender discussions with potential Suppliers prior to the issue of an Invitation to Tender where, for example, the specification is complex, that it cannot be drawn up without input from prospective Suppliers or an insight is needed into how best to package the contract, in order to get the best response from the market. Care must be taken not to express any requirement in the terms of a specific supplier as this may prejudice any procurement.

No Supplier shall 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 in the Contract File. A copy of these meeting notes must also be provided to the Lead Officer for Procurement as soon as practicable after the meeting but before any further procurement activities are undertaken.

PPR10 TERMS AND CONDITIONS

The Lead Officer for Procurement shall be the custodian of the Purchase Order Terms and Conditions and ensure they are fit for purpose and applied to all Tactical Purchases.

The Lead Officer for Procurement shall be custodian of a generic set(s) of Terms and Conditions suitable for use as a starting point for contracts to be let under both the Strategic Derby Homes Contracts and EU Contracts. These shall be amended to ensure they are fit for purpose for the proposed procurement.

The Lead Officer for Procurement shall have access to legal advice and guidance.

Terms and Conditions shall be published to suppliers along with the requirements specification.

Terms and Conditions shall be treated in the same manner as the requirements specification in accordance with the procurement procedure adopted and shall accompany the tender documents at the time of tender.

PPR11 EU CONTRACTS

All contracts which exceed the EU threshold shall fully conform to the UK Governments Public Procurement rules as interpreted by HMG's Office of Government Commerce and found in the Introduction to the EU Procurement Rules: OGC Guidance.

The Authorised Employee conducting the procurement shall work with the Lead Officer for Procurement to develop a plan, where appropriate describing the procurement governance, timescales, resource needs and assumptions etc. and fully describing the nature of the procurement, evaluation criteria, how it shall be undertaken and the form of contract which shall be adopted.

The Lead Officer for Procurement shall provide appropriate advice and guidance to the Authorised Employee.

EU Contracts shall adopt appropriate best practice project management techniques to ensure risk is managed and appropriate controls are in place.

All notices shall be published on the European Website in accordance with EU standards and Directives. An additional notice shall be placed locally to attract local Suppliers. Details published must include:

- Short description;
- Evaluation criteria;
- How such expressions of interest are to be submitted;
- Closing date for receipt of expressions of interest.

All submissions received whether PQQ's or tenders will be evaluated using an appropriate Evaluation Model. The evaluation will be conducted by an appropriately qualified Tender Evaluation Panel consisting of at least two people.

PPR11.1 OPEN TENDERING PROCEDURE

Open Procedures should be adopted only where expected responses can be appropriately managed.

All Suppliers expressing an interest in response to an advertisement must receive all Tender documentation.

PPR11.2 RESTRICTED TENDERING PROCEDURE

The Restricted Procedure shall be adopted where the number of potential Suppliers are larger than can be managed using the Open Procedure. The number of suppliers will be reduced to not less than five through the use of a Pre Qualification Questionnaire

PPR11.3 NEGOTIATED or COMPETITIVE DIALOGUE TENDERING PROCEDURE

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

- An open or restricted tendering procedure 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.

PPR12 STRATEGIC DERBY HOMES CONTRACTS

Strategic Derby Homes Contracts are all contracts with an estimated value of between £30,001 and the EU Contract threshold value.

With the support of the Lead Officer for Procurement, each procurement shall conform to the following practices and procedures commensurate with the value, duration and risk of the contract and in accordance with the Category Plan:

- Develop and document a procurement strategy indicating the channel to market being adopted to access the most appropriate suppliers aligned to the relevant Category Plans;
- If considered appropriate advertise the business requirement for a minimum of 10 calendar days through the most appropriate channel(s);
- All terms of purchase must be delivered under a form of contract as approved by the Lead Officer for Procurement;
- Develop a specification;
- Record the evaluation criteria and specify how the evaluation shall be recorded;
- Develop and send out Invitation to Tender commensurate to the size and risk of the procurement;
- Log submissions – see PPR16;
- Evaluate - see PPR11 ;
- Award – see section PPR21 and PPR22.

PPR13 TACTICAL PURCHASES

The following guidance relating to the most appropriate process should be adopted by the Authorised Employee using the Tactical Purchase Proforma:

- Between £0 and £5,000 seek a minimum of one written or emailed quote and the one offering best value shall be set out in writing, securing a short description of the services or goods to be provided including delivery arrangements etc.
- Between £5,001 and £30,000 secure a minimum of three written quotations, which should be in response to a specification or statement of requirements.

The Authorised Employee undertaking a Tactical Purchase over £5,000 shall identify where possible a minimum of three suitable suppliers from the following sources:

- Derby Homes Approved and existing Suppliers where an existing track record and reputation for Best Value as logged by Authorised Employees can be seen;
- Any Pre-Approved Supplier List as developed and maintained by the Lead Officer for Procurement.

For contracts in excess of £5,000 quotations from suppliers should be recorded and retained by the Authorised Employee.

All orders must be placed using official purchase orders.

PPR14 SUBMISSION AND CUSTODY 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 Supplier, and it can be demonstrated that it arrived in the offices before the deadline;
- Proof of posting will not be accepted as proof of delivery.

The Authorised Employee inviting the Tenders must notify the Lead Officer for Procurement of the tender. The Lead Officer for procurement will nominate a Custody Employee and 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.

PPR15 COLLUSIVE TENDERING CERTIFICATE

In every Tender submitted to the Derby Homes, the Supplier must include a certificate within the form of tender which states that the Supplier:

- Has not colluded with any person with regard to the amount of, or the submission or non submission of any Tender;
- Is not a member or any cartel or party to any agreement whatever aimed at or having the effect of fixing or controlling prices.

PPR16 OPENING OF TENDERS

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 Custody Employee, 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 Supplier and its bid and persons present at the Tender opening must sign this record after the last Suppliers name to prevent any addition to the record.

The reason for rejecting any Tender before formal evaluation, for example, because it is late, must be recorded by the Custody Employee.

The record of opening must be included within the Contract File.

PPR17 TENDER EVALUATION

The evaluation criteria must be predetermined and listed in any notice of competition invitation and Tender documentation.. The criteria shall be designed to achieve Best Value for Derby Homes.

All Tenders must be evaluated in accordance with the evaluation plan, lodged with the Lead Officer for Procurement and in accordance with the specified and published criteria. The evaluation will be undertaken by suitably qualified and experienced employees and/or external specialists engaged to provide evaluation services.

Where the value of the Tender is large or the scope complex, likely to mean all EU Contracts a Tender Evaluation Panel shall be convened in accordance with PPR32.

The evaluation plan and criteria must be strictly observed at all times throughout the contract evaluation 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.

Best Value does not mean the lowest priced Tender.

PPR18 ALTERATIONS TO RECEIVED TENDERS

Post Tender negotiations are anti-competitive and favour the Supplier being engaged in such activity. It is the responsibility of the Authorised Employee to ensure the requirements are fully understood and documented before the specification is published.

Post Tender negotiations and alterations to the contract are not permitted during Open and Restricted Procedure Procurements after the Tender closing date except:

- Where an arithmetical error is discovered before the Tender is accepted, then the Authorised Employees may, at their discretion, either:
 - Inform the Supplier of the arithmetical error and give them the opportunity to either confirm without amendment or withdraw their Tender;
 - Or:
 - Inform the Supplier of the error and give them the opportunity to correct the error and record in contract file where one exists;
- At appropriate points in the Procurement Process where the Negotiated Procedure or Competitive Dialogue Procedure has been adopted and not after submission of best and final offers – see section PPR11.3;
- Where post Tender and post best and final offer ‘clarifications’ are undertaken in accordance with these Rules.

PPR19 NEGOTIATIONS

Negotiations after receipt of Tenders and before best and final offers are only permitted when using the Negotiated Procedure or the Competitive Dialogue Procedure. In doing so the Authorised Employee must not:

- Put other Suppliers in the competition at a disadvantage, distort competition or affect trust in the Tender process;
- Take place on price alone and must consider best value for Derby Homes.

Negotiations may only be undertaken if it is conducted by a team of at least two employees and recorded in the Evaluation Plan and minuted and recorded for inclusion on the Contract File.

PPR20 AUTHORITY TO ACCEPT QUOTATIONS AND TENDERS

Prior to accepting a quotation or tender permission must be sought from either the appropriate Category Manager and/or the Budget Holder.

PPR21 STANDSTILL AND AWARD

Standstill and award is specifically governed by the 2009 Remedies Directive. Derby Homes shall conform to OGC's Guidance.

Award should be against the evaluation criteria published and/or in line with the published Evaluation Plan which documents how Best Value shall be achieved.

The Authorised Employee must, in all cases, record in the Contract File the reason for selecting the successful Tender and rejecting unsuccessful Tenders.

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

Upon award of a contract, a Purchase Order (PO) shall be produced referencing the Contract or the Quotation. The PO calling of goods and services from an EU Contract/Framework or Strategic Derby Homes Contract/Framework shall not reference any Terms and Conditions other than those contained in the Contract.

PPR21.1 For EC Contracts:

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 Suppliers, and the date on which Derby Homes propose to enter into a contract with the successful Supplier. In accordance with this procedure:

- The Authorised Employee must write to all Suppliers invited to Tender, notifying them of the decision and intention to award the contract and will provide the name of the successful Supplier and the evaluation outcome (score if appropriate) for each of the Suppliers;
- No information other than that referred to above must be disclosed to Suppliers 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 Lead Officer for Procurement 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. A copy shall be retained in the Contract File;
- The Authorised Officer and/or the Lead Officer for Procurement shall offer comprehensive feedback to any suppliers requesting such information.

PPR21.2 For Strategic DH Contracts:

The Authorised Employee must write to all Suppliers invited to Tender within 21 days of the award of the contract of a value over £30,000 detailing the outcome of the Procurement Process and offering an opportunity to receive feedback on their Tender.

PPR22 SEALING AND SIGNING OF CONTRACTS

All contracts must be authorised as set out in the Scheme of Delegation, PPR6.

The completed Supplier Record Form should be forwarded to Finance Section within Derby Homes who will raise a Purchase Order against the Contract.

For EC Contracts and Strategic DH Contracts:

After sealing/signing, the contract details must be updated in the Contracts Register.

PPR23 CONTRACT RECORDS AND RETENTION OF THE CONTRACT FILE

All original signed contracts above an aggregate value of £30,000 will be stored in a location managed by the Lead Officer for Procurement. All contracts must be catalogued and maintained with any variations or amendments. The Lead Officer for Procurement must also ensure a scanned copy of the contract is maintained.

The details to be kept in the register include, but are not limited to:

- Date and duration of the contract with expiry date;
- Name of the Authorised Employee;
- Name of the contract owner/manager if different;
- Name of the contractor;
- Brief details of the nature of the contract;
- Value of the contract.

Contracts made under seal, including procurement documentation, must be safely retained by the Lead Officer for Procurement for twelve years from the date of sealing and other contracts, and their documentation must be safely retained for six years from final payment of the account.

PPR24 EXTENSION OF CONTRACT

The Lead Officer for Procurement is responsible for approving extensions to any contract over £30,000.

Prior to the conclusion of the contract, an extension of up to two years duration may be offered provided;

- It was offered as an option in the requirements and agreed in the contract;
- The extension must be in accordance with the contract terms;
- The employee requesting the extension must be able to demonstrate to the Lead Officer for Procurement, upon request, that the supplier has performed the duties of the contract to a suitable standard;
- Value for money is being obtained.

The Authorised Officer must provide to the Lead Procurement Officer written details and proof of the above for approval to be granted. An extension must not be agreed by the Authorised Employee without written approval of the Lead Procurement Officer

Any exception to the Rules shall be subject to the Exception and Waiver rules set out in section PPR5.

PPR25 SECURITY AND/OR GUARANTEES

Where a contract for goods or services is classified as an EU Contract, the Authorised Employee must 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:

- Retention of a percentage of the sums payable until the works or services have been satisfactorily completed;
- Provision of a performance bond or parent company guarantee;
- Use of the contract guarantee reserve fund.

The Lead Officer for Procurement must approve the risk assessment and if necessary the acceptance of a parent company guarantee must be authorised by the Chief Executive Officer of Derby Homes.

PPR26 CONSULTANTS

Any consultants appointed to undertake procurement activity on behalf of Derby Homes must carry out all procurement activities in accordance with these Rules. The appointed consultants must record all procurement activity and provide such documents to the Derby Homes Authorised Employee as soon as practicable thereafter

A consultant is defined as an individual or organisation involved in providing expert analysis, advice and guidance 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.

PPR27 DECLARATIONS OF INTEREST: EMPLOYEES AND CONSULTANTS

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

Personnel must keep completed Declarations of Interest on the individual's personal file.

When a Consultant is engaged, The Authorised Employee will provide a copy of the consultants completed Declarations of Interest and keep the original declaration in the relevant Contract File.

PPR28 FREEDOM OF INFORMATION (FOI) ACT

The FOI provides a right of access to recorded information held by Derby Homes including information about its procurement activities. Derby Homes' policy on FOI should be adhered to at all times.

PPR29 ACCOUNT CODES AND CATEGORY PLANS

The Accounts Team, Principal Accountant and Lead Officer for Procurement shall categorise all annual spends and where appropriate, nominate a Category Manager.

Contracts, Purchase Orders and Invoices shall be allocated to an Account Code for spend monitoring purposes.

The Category Manager shall become familiar with the market of that Category and develop a Category Plan which shall be approved by the Principal Accountant and Lead Officer for Procurement.

The Category Manager, with the collaboration and support of the Lead Officer for Procurement and any other category specialist shall establish a Category Plan. The plan shall state the scope of the category, describe the key trends in the market, detail and identify appropriate channels to market e.g. frameworks, collaborative procurement arrangements or Approved Supplier lists and then appointing an Authorised Employee to establish the necessary arrangements including appropriate contracts.

The Category Manager with the Lead Officer for Procurement shall communicate appropriately any new channels to market and the procedures required to operate the supply line.

PPR30 APPROVED LISTS

Where the Category Plan advocates the use of an Approved List then the following procedure shall be adopted:

- Lists of vetted Suppliers may be compiled by the Category Manager with the support and guidance of the Lead Officer for Procurement;
- The Category Manager with the support of the Lead Officer for Procurement will have discretion over identifying Suppliers known to be suitable with regard to a particular list and in deciding its final constitution;
- To discharge this requirement, the Lead Officer for Procurement may use suitable and appropriately constructed Approved Lists created and maintained by other local authorities or public sector organisations for similar purposes;
- Suppliers shall complete a capability statement and economic profile and be vetted for financial stability, technical competence, quality, managerial capability and previous

- The Approved List(s) of suppliers shall be communicated to staff for Authorised Employees to make use of when making a purchase.

PPR31 TENDER EVALUATION PANEL (TEP)

A Tender Evaluation Panel (TEP) is required for all EU Contracts. The TEP shall be chaired by an Authorised Employee and consist of at least one other person. The TEP shall:

- Agree Tender and procurement strategy;
- Evaluate and score Tender responses;
- Identify the supplier offering Best value to Derby Homes.

The TEP may also include non Derby Homes advisors formed from partner organisations, external consultancy groups, or members of the public. Advisors may:

- Participate in focus groups to identify the priorities and goals of Tender;
- Support Derby Homes to define requirements by contributing to the specification documentation;
- Propose aspects which may form part of the evaluation criteria;
- Provide consultative support using their experience on qualitative matters.

An Advisory Member may not:

- Participate in any decision-making process;
- View submitted Tender (unless express permission has been provided by the Tenderer);
- Vote on or give scores for the Tenders;
- Be party to any commercial aspects of the Tender i.e. prices, incentives.

All Advisors are required to sign a Non-Disclosure Agreement (NDA) specific to the Tender, confirming their understanding that all aspects must be kept confidential and make any Declarations of Interest (PPR27).

PPR32 EMERGENCY PURCHASES

An emergency purchase will only be authorised where it is demonstrated the purchase was business or life critical and may only be employed outside the business hours of 0800 – 1800 Monday to Friday and all day Saturday and Sunday. In such instances a verbal purchase or hand written order may be communicated and a formal purchase order created the following working day. Any emergency purchases must be advised to the Lead Officer for Procurement the following working day.

Any crisis during the business hours of 0700 – 1900 must be compliant with the PSOs unless a specific waiver is granted in advance by the Chief Executive.

PPR33 SUSTAINABLE PROCUREMENT

Derby Homes is committed to sustainable economic business development which minimises the impact on the environment and supports social cohesion. Derby Homes Procurement Policy promotes a positive approach to Sustainable Procurement which covers four areas:

- **Environmental Sustainability** – purchasing goods, work and services, which minimises, where practically possible, carbon footprint and encourages a positive impact on the local environment and utilises whole-life analysis;
- **Economic Sustainability** – recognises the importance of Small/Medium Enterprises (SMEs) to the local community and ensures every opportunity is made not to

discriminate against SMEs during the Tender process recognising Best Value advantage comes from local suppliers;

- **Social Sustainability** - ensures that community well being is considered and that supply chain partners operate to ethical working practices;
- **Equalities & Diversity** – ensures suppliers are required to meet our standards of equality of employment and service delivery and the Tender process is free from discrimination or perceived discrimination in accordance with Derby Homes Equality Policy.

Suppliers shall be informed of Derby Homes' sustainability requirements as part of any invitation to Tender for all contracts exceeding £30,000.

Authorised Employees shall evaluate a supplier's response to Derby Homes sustainability requirements as recorded in the Tender award criteria.

The Lead Officer for Procurement shall ensure that the Sustainable Procurement Policy is underpinned by appropriate guidance which can be adopted by Authorised Employees as part of any procurement process.

PPR34 INSURANCE LIABILITY

The Lead Officer for Procurement shall establish the appropriate level of insurance required of suppliers for each contract type. The employee conducting the procurement process shall be responsible for ensuring that the suppliers have adequate insurance in place.

PPR35 FINANCIAL SECURITY

The employee conducting the procurement process shall ensure that potential suppliers are financially robust. Where either the total aggregated value of the contract exceeds £1,000,000 or there is doubt as to the financial credibility of any supplier additional forms of security to a level determined by the Lead Officer for Procurement shall be obtained.

Derby Homes

Procurement Standing Orders

Effective from 1 August 2012

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INTRODUCTION

This document is part of Derby Homes constitution and must be complied with at all times. Compliance with these rules is compulsory and not discretionary for all employees buying goods and/or services for Derby Homes.

Where an employee is buying goods and/or services for Derby City Council they must follow Derby City Council's, Contract Procedure Rules. A copy of Derby City Council's Contract Procedure Rules can be found on the Council's intranet under the heading of procurement.

These standing orders have 5 objectives:

1. To comply with the laws that governs the spending of public money.
2. To protect employees and individuals from undue criticism and wrongdoing.
3. To secure the best value for money.
4. Generate market competition.
5. Procure in an open and transparent manner.

The Lead Procurement Officer (LPO) is the custodian of the Procurement Standing Orders (PSO) and holds the responsibility for keeping them under review and issuing amendments to ensure the objectives above are met.

The LPO will advise on the interpretation of the PSO and how they shall be implemented. The LPO will have access to legal advice and guidance for all procurement matters.

These rules must be read in conjunction with Derby Homes financial regulations and all other Derby Homes standing orders. The financial regulations and all other Derby

Homes standing order documents can be found at the Derby Homes controlled documents site under Governance Arrangements.

DEFINITIONS

Approved List	means a list of approved contractors and/or suppliers compiled by Derby Homes or an external organisation and approved by the Chief Executive or Director & Company Secretary of Derby Homes for use when selecting suppliers or service providers.
Authorised Employee	means an employee of Derby Homes Limited to whom the 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 Non Executive Directors of Derby Homes.
Budget Manager	means the employee who is responsible for the budget for the relevant services or supply.
Business Processing Team	means the team in Derby Homes responsible for the processing of orders and accounts payable.
CEO	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 or procurement of services, works and / or goods.

Custody Employee	means an employee to whom the CEO 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).
EU 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' governance documents relating to financial management.
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 organization or individual engaged by Derby Homes to provide legal assistance and advice.
Lead Procurement Officer (LPO)	means an employee within Derby Homes who the CEO has appointed to act and advise on all matters relating to procurement.
OJEU	means the Official Journal of the European Union.
PQQ	means Pre Qualification Questionnaire.

Rules (PSO)	mean these Procurement Standing Orders.
Scheme of Delegation	means the list that is compiled as required by these rules which identifies key individuals who can act in accordance with the rules.
Works Contract	means a contract that involves constructing buildings, infrastructure, demolition, general building and civil engineering work, services and general completion work (e.g. joinery, decorating).

COVERAGE AND COMPLIANCE

Every procurement undertaken on behalf of Derby Homes must comply with these rules.

The PSO require individual employees to be designated as:

- Lead Procurement Officer (LPO)
- Category Manager (CM)
- Authorised Employee (AE)
- Custody Employee (CE)

Employees designated to these roles must be defined in the scheme of delegation. These roles have specific responsibilities under the PSO and all designated employees must ensure they meet their obligations in full.

Anyone who is not an employee of Derby Homes but is authorised to carry out procurement activities on behalf of Derby Homes must comply with these rules.

All contraventions of the PSO must be reported to the LPO as soon as possible after discovery. The LPO will advise the CEO, a Director or a member of the senior management team (whoever is appropriate) of the contravention. The LPO will also provide advice on the risk of the contravention, possible remedy for the contravention and action to prevent further contraventions.

Following any contravention the LPO will review the PSO and, if necessary make any amendments to prevent future infringements.

PPR 1.0 EXCLUDED AREAS

1.1 The following categories of procurement are excluded from these PSO.

- Contracts for the acquisition or lease of land and/or real estate
- Contracts for permanent or fixed term directly employed individuals
- Individual orders raised under the terms of an existing contract or agreement previously procured under the terms of these PSO
- Direct payments to individuals or organisations as a grant donation and/or for self directed support

1.2 Any employee arranging a procurement falling within the categories as defined above can do so and will not be obliged to notify the LPO.

1.3 The following categories of procurement are also excluded from these PSO.

- Orders for work with utility companies where no reasonable alternative supplier or service provider is available.
- Services to be delivered solely by a Derby City Council or Derby Homes in house team or subsidiary company.
- A declared emergency as defined by the Civil Contingencies Act 2004 and authorised by Derby Homes designated Emergency Planning Officer.
- Work or Services supplied under the terms of a service level agreement with Derby City Council or other public body.

1.4 Any employee arranging a procurement falling within the categories as defined above must notify the LPO before committing Derby Homes to any supplies of goods and/or services if possible and if not possible at the earliest opportunity thereafter.

1.5 The employee arranging such procurement must provide in details of how value for money will be achieved. If it is not possible to establish if value for money will be achieved the reason why this is the case must be recorded.

PPR 2.0 EXCEPTIONS AND WAIVERS

2.1 The PSO are mandatory and must be adhered to at all times. Nothing will be allowed to prevent good procurement practices from being adopted.

- 2.2 No exceptions to these rules shall apply if they contravene any statutory or EU regulation.
- 2.3 The LPO may approve and the CEO authorise exceptions from these rules if they are fully satisfied that the goods, works or services:
- can only be sold at a fixed price and no reasonable alternative is available
 - the price is wholly controlled by an individual body and no reasonable alternative is available.
 - services and supplies of a specialist nature or any other reason where there would be no other reasonable alternative. These could include but are not limited to:
 - instruction of counsel
 - medical experts
 - legal advisers
 - professional experts
 - technical experts
 - where it is in the interests of Derby Homes business operation to follow a different route of procurement to engage a supplier and/or service provider
- 2.4 In all cases where an exemption is requested the requesting employee must provide a waiver giving written details showing why they feel the exemption is necessary and in all cases show why no genuine competition is possible or if it is the reason why competition is not being undertaken.
- 2.5 The Waiver must also provide details of the specific rules being waived, the expenditure that will be incurred as a result of the waiver, the time scale in which the waiver will remain in force and any risks and risk mitigation required by not following these rules.
- 2.6 All waivers must be approved by the LPO and authorised by the CEO in writing before being actioned.
- 2.7 The LPO shall maintain a register of all waiver requests and the outcome of the request. A report of all waivers shall be submitted to the Resources, Remuneration and Regeneration Committee annually.
- 2.8 A copy of each individual waiver must be placed in the relevant contract file by the employee managing the procurement.

PPR 3.0 REGISTER OF EMPLOYEES /SCHEME OF DELEGATION

- 3.1 A register of employees with specific procurement responsibilities shall be created and maintained by the LPO

3.2 The register of employees will contain:

- The employees title
- Maximum monetary value permitted to be authorised by an individual employee per order
- Maximum monetary value permitted to be authorised in total by an individual employee per year.

3.3 The register will also show which employees are delegated authorised to undertake the following activities on behalf of Derby Homes

- Entering into a contract
- Receipt, custody and opening of tenders

3.4 The register of employees / scheme of delegation will be authorised, signed and dated by the CEO of Derby Homes.

3.5 The register of employees will be presented to the Resources, Remuneration and Regeneration Committee of Derby Homes annually who will inspect and review the document.

3.6 The Head of Personnel will advise the LPO of any new posts created within Derby Homes as soon as possible after agreement is reached to make an appointment to the new post. This will allow the LPO to add all new posts to the register of employees.

PPR 4.0 LEGAL REQUIREMENTS

4.1 All contracts will in all respects be governed by and interpreted in accordance with English Law and all parties shall submit to the exclusive jurisdiction of the English courts in all cases of conflict.

PPR 5.0 CONTRACT VALUE

5.1 Any employee authorised to conduct a procurement exercise must first estimate its value.

5.2 In calculating the value of the procurement the estimate must not be deliberately under estimated or sub-divide and must take into account:

- the full time scale of the agreement and not merely the annual spend.
- the wider Derby Homes requirement for the goods, works or services being procured.
- the costs that will be incurred should the contract be extended.

5.3 Where the estimated contract value exceeds £30,000 a contract file will be created and the estimated contract value recorded within it. The employee conducting the

procurement will also notify the LPO that a procurement is about to commence and seek advice on:

- The estimated contract value.
- The type of contract.
- The practices and procedures to be adopted.

5.4 The following procurement categories will be followed once the estimated contract value has been established:

- EU Procurements = All estimates over the EU threshold.
- Strategic Procurements = All estimates below EU threshold but above £30,000.
- Tactical Procurements = All estimates below £30,000.

5.5 EU monetary thresholds are set periodically by the EU and ratified by the UK Government. The AE must check with the LPO to ensure the correct and current EU threshold value is applied to the estimated contract value to establish the correct procedure to be followed.

5.6 The employee estimating the contract value must notify the LPO on all occasions where the final tender value exceeds the estimated contract value by more than 10% before making the award.

PPR 6.0 EU PROCUREMENTS

6.1 All procurements which exceed the current EU thresholds must fully conform to The Public Contracts Regulations 2006 and subsequent amendments on Public Procurement.

6.2 The AE conducting the procurement shall develop a plan which describes:

- The type of procurement process to be adopted, systems of recording and processes and procedures to be followed
- Timescale for completing the procurement
- Resources available
- The nature of the procurement
- The evaluation criteria and how it will be applied
- How the procurement will be undertaken
- The form of contract to be adopted
- Key risks and how they are intended to be managed and controlled

6.3 The LPO will provide the appropriate advice and guidance to the AE in developing the plan.

- 6.4 Once the plan has been developed the AE shall develop all tender documents dependant on the type of procurement being adopted.
- 6.5 Once the contract documents have been completed the AE will then publish all notices on the European Website in accordance with EU standards and directives.
- 6.6 Additional notices shall be placed locally to attract local suppliers. Details to be published shall include:
- A short description
 - The evaluation criteria
 - How, where and to whom expressions of interest are to be submitted
 - The closing date by which expressions of interest are to be received

PPR 7.0 STRATEGIC PROCUREMENTS

- 7.1 The AE will develop a procurement plan based upon the appropriate Category Plan where one exists.
- 7.2 The procurement plan will:
- Indicate the channels to market being adopted to access the most appropriate suppliers.
 - Timescale for completing the procurement.
 - The nature of the procurement.
 - The form of contract to be adopted.
 - Key risks and how they are intended to be managed and controlled.
- 7.3 The LPO will provide the appropriate advice and guidance to the AE in developing the plan.
- 7.4 Once the plan has been developed the AE shall develop all tender documents dependant on the type of procurement being adopted.
- 7.5 Tender documents will include:

Open tender

- Detailed specification or brief.
- Evaluation criteria including how the criteria will be applied and recorded.

Restricted tender

- Pre qualification questionnaire.
- Detailed specification or brief.
- Evaluation criteria including how the criteria will be applied and recorded.

- 7.6 Once the tender documents have been completed the AE will advertise the procurement as appropriate, log expressions of interest, evaluate all returned tenders and recommend award as described in section PPR 12 of this document.

PPR 8.0 TACTICAL PROCUREMENTS

- 8.1 Tactical procurements will be divided into two categories:

Below £5,000 in value

Above £5,000 but below £30,000 in value

- 8.2 All tactical procurements below £5,000 will be subject to the AE compiling a short statement of requirements and obtaining a minimum of one e-mailed or written quotation prior to placing the order. If more than one quotation is obtained the organisation offering the best value for money shall be given the order.
- 8.3 All tactical purchases with an estimated value in excess of £5,000 shall be subject to the AE compiling a statement of requirements or specification, identifying a minimum of three suitable potential suppliers/service providers, and obtaining a minimum of three written quotations. For all tactical purchases over £5,000 the supplier/service provider offering the best value for money will be given the order.
- 8.4 The AE undertaking the procurement must record and retain all quotations in relation to the procurement. All orders must be placed using an official purchase order and be subject to Derby Homes' terms and conditions.
- 8.5 Arrangements for receiving, storing and opening must be arranged by the employee requesting quotations. The receipt and storing of quotations should be with an employee unconnected with the procurement. The opening should take place with not less than two employees of Derby Homes.

PPR 9.0 CATEGORY PLANS

- 9.1 The LPO in consultation with the Principal Accountant will review all annual spends and divide into categories where appropriate. The LPO will then nominate a Category Manager to each category.
- 9.2 The Category Manager will establish a category plan in collaboration with the LPO. The plan will state the scope of the category; describe the key trends and appropriate channels to market e.g. frameworks, collaborative procurement arrangements. Once complete the Category Manager will appoint an Authorised Employee to conduct the procurement.
- 9.3 The Category Manager shall communicate the Category Plan to all appropriate employees within Derby Homes and will advise on its interpretation when required.

PPR 10.0 SUBMISSION CUSTODY AND OPENING OF TENDERS

- 10.1 If these rules require an invitation to tender the invitation must clearly advise the tenderers that:
- The tender must be returned in a plain unmarked envelope with only the labelling provided by Derby Homes being clearly visible on the envelope.
 - The tender envelopes will be firmly sealed and either returned by post or hand delivered.
 - No tender received after the date and time for the receipt of tenders will be considered. The only exception will be if it can be proved that the tender documents were at or in Derby Homes offices on or before the date and time for the receipt of tenders and the delay was outside the control of the tenderer.
 - Proof of posting will not be accepted as proof that the tender documents were delivered.
- 10.2 The AE inviting tenders must make arrangements for the receipt, custody and opening of tenders. A CE must be nominated for this purpose and the LPO will advise who would be best placed to act as CE.
- 10.3 All returned tenders must be marked with the time and date of receipt and passed immediately to the CE who will store them un-opened in a secure location until the date and time arranged for opening.
- 10.4 For all returned tenders the AE must make arrangements to open the submissions all at the same time in the presence of the CE and at least one other employee.
- 10.5 A written record of all tenders must be made at the time of opening and retained on the contract file. The record must contain:
- Date and time of opening
 - Names of the employees present at the opening
 - Name of each supplier and its bid
- 10.6 The AE must sign after the last suppliers entry to prevent any further records being added.
- 10.7 A copy of the opening record must be placed on the individual contract file.
- 10.8 All tenders other than late returned tenders must be opened:
- Only after the deadline set for return of submissions.
 - At the same time and place.

PPR 11.0 TENDER EVALUATION

- 11.1 The tender evaluation criteria must be predetermined and listed in any notice of competition invitation and tender documentation. The evaluation criteria must be designed in such a way as to achieve best value for Derby Homes.
- 11.2 All tenders must be evaluated in accordance with the published evaluation plan and all evaluation scoring must be retained on the contract file for future reference.
- 11.3 The evaluation plan and criteria must be strictly observed at all times throughout the procurement process by all employees involved in the procurement. In all cases the AE and/or evaluation team must accept the tender which delivers the best possible value for Derby Homes.
- 11.4 Where a contract is to be awarded based on the most economically advantageous tender a tender evaluation panel (TEP) must be established. The TEP shall consist of the AE managing the procurement and at least one other employees of Derby Homes.
- 11.5 The TEP may also include advisors drawn from outside Derby Homes. Advisors may:
- Participate in identifying priorities and goals for the tender.
 - Assist in defining requirements and contribute to the specification and/or brief.
 - Propose evaluation criteria.
 - Provide consultative support.
- 11.6 The advisor may not:
- Participate in any decision making process.
 - View submitted tenders.
 - Vote or give scores for tender evaluation.
 - Be party to any commercial aspects of the tender.
- 11.7 All advisors must sign a non disclosure agreement specific to the tender confirming confidentiality and disclosing any declarations of interest.
- 11.8 The TEP will:
- Agree tender and procurement strategy.
 - Evaluate and score PQQ and tender responses – not the advisor
 - Identify supplier offering best value for Derby Homes – not the advisor
- 11.9 Where a consortium procurement is to be used a TEP will not be necessary unless Derby Homes need to undertake a mini-competition to appoint from a framework

agreement. Where a TEP is not established for a consortium agreement the evaluation guidance contained in section 31 must be followed.

PPR 12.0 AUTHORISATION TO ACCEPT QUOTATIONS, TENDERS AND SIGNING OF CONTRACTS

- 12.1 Authorisation to accept tenders and/or quotations must be sought from the appropriate delegated employee and budget holder prior to acceptance. For all quotations not requiring a contract an official order must be raised.
- 12.2 Once authorisation is given to accept a tender and the appropriate standstill period has been observed a contract must be compiled for signing. This must be a standard form of contract where one is available or Derby Homes standard form of contract if not or if a bespoke contract is required the LPO must be consulted prior to compiling the contract.
- 12.3 The AE must ensure the contract register is updated and the signed contract provided to the LPO within one month of the appointment.

PPR 13.0 STANDSTILL PERIOD AND AWARD

- 13.1 All tenders must be evaluated against the original evaluation criteria which documents how value for money will be established. The AE must in all cases record on the contract file the reasons for selection and rejection of each individual tender along with authorisation to spend and appoint.
- 13.2 Upon award of the contract a supplier information form must be completed by the successful supplier and passed to Derby Homes, Business Processing Team so that an account can be established for orders and payments to be made.
- 13.3 Standstill periods for EU procurements are specifically governed by the European procurement rules. A standstill period of at least ten working days must elapse between
 - The date of despatch of notification to award sent to all tenderers and
 - The date at which Derby Homes intend to enter into the contract with the successful supplier.
- 13.4 The AE must write to all suppliers invited to tender notifying them of the decision and intention to award. The AE must provide:
 - The Award Criteria
 - The score obtained by the operator which is to receive the notice
 - The score obtained by the operator to be awarded the contract
 - The name of the operator to be awarded the contract

- 13.5 the name of the successful supplier and the evaluation outcome (score or cost whichever is appropriate for all tenderers)
- 13.6 No information other than that referred to above may be disclosed to tenderers or other external organisations.
- 13.7 If no challenges are received the contract can be awarded after fifteen days from the despatch of the initial notification. If a challenge is received the LPO must be immediately consulted.
- 13.8 The AE must send a contract award notice to the OJEU within 48 days of the decision to award the contract a copy of this notice must be retained on the contract file.
- 13.9 For all non EU procurements the AE must write to all suppliers invited to tender within 21 days of the award of the contract detailing the outcome of the procurement process.
- 13.10 If requested by an unsuccessful tenderer, where a non EU procurement has taken place the AE must debrief them about their tender and the characteristics and relative advantages of the preferred tenderer but must not disclose any additional information without the consent of the LPO.

PPR 14.0 CONTRACT EXTENSION

- 14.1 Contracts may be extended with approval of the LPO and the authorisation of the CEO prior to the conclusion of the contract provided that:
- The extension was offered as an option in the original contract document
 - The extension is no more than two years duration
 - The extension is not greater than 50% of the original contract duration
 - The extension is in accordance with the contract terms.
 - The performance and duties of the supplier are to a suitable standard
 - Value for money is being obtained
- 14.2 A contract must not be extended without prior approval of the LPO and CEO and such approval must be recorded on the contract file.

PPR 15.0 APPROVED LISTS

- 15.1 Approved lists will not normally be established and maintained by Derby Homes. However in some instances approved lists may be an advantage for procurements within a particular category. This will usually be where regular and frequent demands for goods and/or services which cannot easily be put together and priced in a single tendering exercise are required.

- 15.2 In such cases and where the CM feels it is appropriate to use an approved list in relation to a specific category the approval of the LPO should be obtained to either:
- Utilise an approved list created and maintained by an external organisation.
 - Create and maintain an approved list for use by AE's within Derby Homes.
- 15.3 If approval is given to create an approved list the CM will be responsible for establishing and maintaining such a list. Guidance on the factors to take into account when deciding if an approved list should be established, the format of the list and how to create and maintain it should be obtained from the LPO.
- 15.4 Approved lists cannot be used where the EU procedure rules apply.
- 15.5 The CM will be responsible for vetting suppliers both at original formation of the list and also at regular intervals not greater than 12 months duration after compilation of the list. This vetting must establish the suppliers capability, economic profile, financial stability, technical competence, quality, managerial capacity, previous performance, sustainability practices and health and safety adherence. The CM will also ensure the list is regularly maintained and made available to any employee who may require access to it.
- 15.6 The LPO will have the discretion to instruct the use of known suitable approved lists with regard to a particular categories of works and/or services. To discharge this requirement the LPO may instruct the use of suitably and appropriately constructed lists created and maintained by other external organisations.

PPR 16.0 EMERGENCY PURCHASES

- 16.1 An emergency purchase may only be made outside normal business hours of 08.00 to 17.00 Monday to Friday and all day on Saturday's Sunday's and public holiday's where it can be demonstrated that the purchase is life or business critical.
- 16:2 In such instances a verbal purchase or hand written order may be communicated and a formal purchase order created the following working day. The LPO must be advised of any emergency purchases as soon as practical following its procurement.
- 16:3 Any emergency purchase required during normal business hours of 08.00 and 17.00 must comply with these rules.

PPR 17.0 INSURANCES

- 17.1 The Insurance Claims Handler must be consulted to establish the appropriate level of insurance required for each type of procurement. The AE conducting the procurement will be responsible for ensuring service providers and/or suppliers have the appropriate insurance in place.

- 17.2 The AE must provide a copy of the service provider and/or suppliers current insurance certificate along with any relevant information to allow the Derby Homes, Insurance Claims Handler to establish that the insurance taken meets Derby Homes requirements.
- 17.3 The AE must also ensure the Insurance Claims Handler receives copies of any renewal certificates throughout the life of the contract term.
- 17.4 The insurance and documents supplied must be confirmed as acceptable by the Insurance Claims Handler before any contract is entered into.

PPR 18.0 FINANCIAL SECURITY

- 18.1 The employee conducting the procurement process must before making any appointment ensure the successful supplier and/or service provider is financially robust.
- 18.2 A financial risk assessment must be undertaken for services and/or goods contracts above the EU threshold, for works contracts over £1m and / or when the contract is deemed to be high operational risk by the AE.

High operational risk is where in the event of an organisation ceasing to trade during the contract period:

- there is a limited number of alternative providers capable of taking on the contract promptly,
- or
- the implications of an organisation failing during the course of the contract term would create a material disruption to the service.

- 18.3 The financial risk assessment must show how any identified risks will be eliminated or reduced to an acceptable level. The financial risk assessment must be accepted and authorised by the Head of Finance before any contract with the supplier and/or service provider is entered into.

PPR 19.0 TERMS AND CONDITIONS

- 19.1 The LPO will be the custodian of the Derby Homes official terms and conditions (TC's). These TC's will be applied to all official orders for goods, works or services. The LPO will ensure they are fit for purpose. These terms and conditions will be applied to all orders where a formal contract is not in place.
- 19.2 The official Derby Homes terms and conditions must accompany the specification or brief on all quotations and shall be treated as an integral part of any agreement

- 19.3 For all contracts and/or orders the service provider and/or suppliers own terms and conditions must not be accepted without prior approval of the LPO.

PPR 20.0 MEETINGS WITH SUPPLIERS AND PRE-TENDER DISCUSSIONS

- 20.1 Meetings around the time of procurement with service providers who are likely to bid to supply goods and/or services to Derby Homes should be avoided if at all possible. Where it is not avoidable advice should be sought from the LPO before holding any such meeting. If the meeting must take place care should be taken to avoid giving or being seen to give an unfair advantage to that provider. To achieve this employees must ensure:
- The meeting has at least two Derby Homes employees present at all times
 - The meeting is accurately minuted
 - The procurement is not discussed
- 20.2 Where such meetings are to take place the employees of Derby Homes must make it clear to all representatives before the meeting commences that it would be inappropriate to discuss the current procurement and should any reference be made to the ongoing procurement the meeting must be suspended.
- 20.3 Where a meeting needs to be suspended due to a supplier's reference to a current procurement the LPO must be informed.
- 20.4 The LPO may authorise pre-tender discussions with potential suppliers prior to the invitation to tender where the specification is complex and cannot be drawn up without input from the supplier. Where approval is given to hold pre tender discussions the meeting must:
- Be in the presence of at least two Derby Homes employees
 - Express any requirement in the terms of the specific supplier
 - Ensure the meeting is accurately minuted
 - Not lead the supplier to believe the information they give will result in them being awarded the contract
- 20.5 The meeting minutes must record who is present, all discussions, questions, answers and responses.

PPR 21.0 CONSULTANTS

- 21.1 Any consultant, contractor, supplier, organisation or individual employed by Derby Homes to undertake procurement activities on behalf of Derby Homes must comply strictly with these rules and produce appropriate records to confirm they have done so.

- 21.2 Where a consultant is being procured to work with or advise Derby Homes they must be procured in accordance with these rules.

PPR 22.0 LEASEHOLDER CONSULTATION

- 22.1 Under Section 20 of the Landlord and Tenant Act 1985 Derby Homes must consult with the Council's leaseholders prior to starting a procurement and also at various stages throughout a procurement if the procurement contains any work or services that will affect a leaseholder. It is particularly important to undertake this consultation if a portion of the costs of the work or services are to be recovered from the leaseholder(s).
- 22.2 When carrying out a procurement that requires leaseholder consultation the leaseholder manager must be informed prior to the start of the consultation.
- 22.3 The legislation requires consultation for two types of work:
- Qualifying Works
 - Qualifying Long Term Agreements.
- 22.4 Qualifying works are defined as repairs, maintenance or improvement works to a building or any other premises that will cost more than £250 for any one leaseholder. Consultation must be undertaken when the proposed works exceed £250 per leaseholder. Failure to consult will result in cost recovery being restricted to no more than £250 for the works.
- 22.5 Qualifying Long Term Agreements are contracts entered into by Derby Homes with an independent service provider for a period of 12 months or more. Derby Homes are required to consult when the amount any one leaseholder is expected to pay exceeds £100 in any accounting period. Failure to consult will result in cost recovery being restricted to no more than £100 in any accounting period.

Consultation requirements for qualifying works include three stages:

- 22.6 A pre-tender consultation notice informing the leaseholder of intention to carry out works must be sent to each individual leaseholder 30 days prior to commencing any procurement work. During the consultation period leaseholders are invited to send in their written observations or nominate a service provider from whom you must seek an estimate or tender. You must also take into account any observations received during the consultation period.
- 22.7 A tender stage consultation notice must be sent to each individual leaseholder 30 days prior to awarding the works or services. You must provide at least two estimates for the completion of the proposed works. At least one of the estimates provided must be obtained from a service provider unconnected with Derby Homes, and where a leaseholder has nominated a service provider, then that service provider's estimate should also be provided. During the consultation period

leaseholders are invited to send in their written observations to the estimates provided. You must also take into account any observations received during the consultation period.

- 22.8 A notification of the award of contract must be sent to each individual leaseholder following the award of the contract. No award notice is required if the chosen service provider is the lowest tender or a service provider nominated by a leaseholder. When issuing an award notice you must explain why the contract has been awarded and provide a summary of observations received in regards to the estimates and your response to them, or the notice must specify when and where these can be inspected.

Consultation requirements for qualifying long term agreements include two stages:

- 22.9 A pre-tender consultation notice informing leaseholders of the intention to enter into a long term agreement must be sent to all individual leaseholders 30 days prior to starting a procurement. During the consultation period leaseholders are invited to nominate a service provider and send in their written observations. You must invite any nominated service provider to tender and have regard to any observations. Where the procurement falls within EU procurement rules Derby Homes are not required to invite leaseholders to nominate a service provider.
- 22.10 A notice of proposals to enter into a long term agreement must be sent to each individual leaseholder. The notice must provide details of the proposed service provider and any connections they have with Derby Homes, the anticipated length of the agreement and an estimate of costs. The notice has a 30 days consultation period during which leaseholders are invited to provide written observations. You must respond to any observations received within 21 days of the receipt of the leaseholder's observations.

PPR 23.0 DECLARATIONS OF INTEREST

- 23.1 The LPO will arrange for all employees of Derby Homes to be sent a declaration form on an annual basis. All employees will be required to complete the form with any known or suspected interests over the forthcoming 12 months. Any conflicts or interests will be passed to the appropriate CM who will arrange for the avoidance of any conflicts.
- 23.2 If any employee of Derby Homes becomes aware of any interest or conflict that may prejudice a procurement they must immediately contact the LPO for advice.
- 23.3 Any consultant, contractor, supplier, organisation or individual employed by Derby Homes to undertake procurement activities on behalf of Derby Homes must also complete a declaration form. If any conflict or interest is established advice must be obtained from the LPO before proceeding.

PPR 24.0 COLLUSIVE TENDERING CERTIFICATE

- 24.1 All tenderers must be sent and instructed to complete a collusive tendering certificate (CTC). Failure to complete and/or return the completed CTC with the form of tender will result in the suppliers bid being rejected.
- 24.2 The CTC must clearly state that the tenderer or any agent or employee of the tenderer:
- Has not colluded with any person with regards to the amount of or submission or non-submission of any tender
 - Is not a member of any cartel or party to any agreement aimed at or having the effect of fixing or controlling prices
 - Has not offered or attempted to offer any reward or favour to Derby Homes, its employee(s) or agents for any advantage relating to the procurement and/or its award

PPR 25.0 ALTERATIONS TO RECEIVED TENDERS

- 25.1 Post tender negotiations are anti competitive and favour the supplier being engaged in such activity. It is the responsibility of the AE to ensure Derby Homes requirements are fully described in the specification and/or brief and understood before the tender documents are published.
- 25.2 Post tender negotiations are not permitted during the open or restricted tender process after the tender submission closing date except where an arithmetical error has been discovered before the tender is accepted.
- 25.3 Where an arithmetical error has been discovered the AE may at their discretion either:
- Inform the supplier of the arithmetical error and give them the opportunity to either confirm without amendment or withdraw the tender
- or
- Inform the supplier of the error and give them the opportunity to correct the error.
- 25.4 Whichever option is chosen the AE must record in the contract file the action taken and why.
- 25.5 Where the negotiated procurement procedure or competitive dialogue procedure has been adopted alteration to tender documents may take place. However the final version of tender documents must be compiled before requests for best and final offers and no alterations may take place after requests for best and final offers

are made.

PPR 26.0 POST TENDER NEGOTIATIONS

- 26.1 Negotiations with tenderers after submission of a tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content must only take place in exceptional circumstances and only after consultation with the LPO.
- 26.2 Any such negotiations must only take place with the supplier submitting the best tender unless other tenders are close in value in such a case other suppliers may be included in the negotiations provided such inclusion is approved by the LPO.
- 26.3 All negotiations must be conducted in the presence of at least two Derby Homes employees one of whom must be a senior manager.
- 26.4 During negotiations tendered rates and prices must only be adjusted in response to a corresponding adjustment in service and/or delivery and /or quantity.
- 26.5 Any negotiations must not increase the final tendered sum above the next lowest tender value and where any negotiations result in fundamental changes in specification, contract terms and/or prices the contract must not be awarded but re-tendered.
- 26.6 Employees who carry out post tender negotiations must ensure they are accurately recorded and any changes in specification or price arising from post tender negotiations are recorded in writing and signed by the supplier before the contract is awarded.

PPR 27.0 FREEDOM OF INFORMATION ACT (FIA)

- 27.1 The FIA provides a right of access to records and recorded information held by Derby Homes. This includes all information about procurement and procurement activities. You must ensure that all parties involved in a procurement are advised that all information other than commercially sensitive information will be disclosed upon request.

PPR 28.0 RECORDS AND RETENTION OF DOCUMENTS

- 28.1 All original signed contracts above a value of £30,000 will be stored in a location managed by the LPO. All contracts must be catalogued and maintained with any amendments. The AE must ensure that any contract amendments are passed to the LPO as soon as practicable after agreement. The contract register must contain:
 - Duration of the contract including start, completion and extension dates
 - Name of AE
 - Name of contract owner/manager if different from AE

- Name of supplier
- Brief description of the contract requirements
- Value of contract

28.2 All contracts above £30,000 must have a contract file which must hold all key procurement records including:

- The invitation to tender or advertisement
- The award criteria
- If a shortlist was used details of how this was established
- Any details of market testing prior to tender
- Any tenders received
- Records of waivers and/or exceptions
- Reason for appointment
- All tender communications
- Details of any tender negotiations (including minutes)
- Evaluation documentation
- Notifications to tenderers
- The signed Contract

28.3 All contract files must be retained for a minimum of six years from the date of payment for the final account. All unsuccessful supplier bids must be retained for a minimum of 12 months after the appointment of the successful service provider providing that there are no disputes regarding the award.

PPR 29.0 SUSTAINABLE PROCUREMENTS

29.1 Derby Homes are committed to sustainable economic business development which minimises the impact on the environment and supports social cohesion. The four areas critical to meeting this goal are:

- **Environmental Sustainability**

Purchasing goods, works and or services which minimise, where practically possible, the carbon footprint and encourages recycling resulting in a positive impact upon the local environment.

- **Economic Sustainability**

Recognition the importance of small and/or medium enterprises (SME's) to the local community and ensures every opportunity is made not to discriminate against SME's in the tendering process and recognising the value from local suppliers both to the environment and local economy.

- **Social Sustainability**

Ensuring that any procurement takes into account community wellbeing and also ensuring the supply chain take these issues into account and operate ethical working practices

- **Equalities**

Ensure any supplier or service provider meet Derby Homes standards of equality of employment and service delivery and also ensure the tender process is free from perceived discrimination in accordance with Derby Homes equality policy

- 29.2 The AE carrying out the procurement must ensure Derby Homes Sustainable Procurement requirements are clearly documented in the contract specification or contract brief document.
- 29.3 Where the tender is a most economically advantageous tender the tender evaluation plan can take into account Derby Homes sustainable procurement requirements.

PPR 30.0 COLLABORATIVE PROCUREMENTS

- 30.1 Procurement law for collaborative procurements places legal responsibility for compliance with the organisation purchasing the supplies, services and/or goods. This means that if Derby Homes utilise a contract or framework procured by a purchasing consortium Derby Homes have a responsibility to ensure that the consortium has procured the contract legally. Any AE who intends to utilise any arrangement put in place by a consortium must satisfy themselves that the legal procurement process has been followed and that it is legally compliant with all procurement law.

30:2 BEST VALUE TEST

Before arranging to utilise a purchasing consortium the Authorised Employee must carry out a best value test to ensure the use of the consortium is the best purchasing solution for Derby Homes. The evaluation should consider prices from other consortium and service providers who are able to provide the supplies, services, and/or goods. A minimum of two other service providers costs must be considered as part of the evaluation and only if the consortium provide the lowest price for the service, goods or supplies should they be considered for use.

- 30.3 If other economical considerations mean that a consortium procurement would provide an advantageous solution for Derby Homes even though they do not provide the lowest price option after evaluation and the CM feels it appropriate to use the consortium, the CM must compile a waiver and submit to the (LPO) for approval before proceeding with the utilisation of the consortium. The waiver must

take the best value evaluation figures and show how use of the consortium agreement will provide a financial benefit to Derby Homes.

PPR 31.0 CONSORTIUM CONTRACTS

- 31.1 Before entering into a contract with an organisation procured through a consortium the AE must place on file:
- proof that compliance with procurement law has been followed,
 - proof that the lowest price solution has been adopted or a waiver obtained
 - the service providers insurance documents
 - the service providers financial check information to show the company is financially stable

PPR 32.0 CONSORTIUM TENDER EVALUATION

- 32.1 When considering the use of a procurement either undertaken by or to be undertaken by a consortium the AE must ensure that one of the following is undertaken:
- 32.2 Where the procurement is complete and the award has been made the AE must carry out a full review of the tender evaluation to ensure it complies with the tender evaluation plan and only if it does should consideration be given to utilising the arrangement.
- 32.3 Where a procurement has not been concluded and the tender evaluation remains outstanding the AE should where possible be involved in the tender evaluation process and ensure the evaluation and award comply with the tender evaluation plan
- 32.4 Evidence of the evaluation and/or review must be kept on the contract file

PPR 33.0 CONSORTIUM FRAMEWORK AGREEMENTS

- 33.1 Framework agreements procured by a procurement consortium may be used if
- proof that compliance with procurement law has been followed is made available.
 - proof that the lowest price solution has been adopted or a waiver obtained (As described in the Best Value Test described in section 29.2 above)
 - Approval has been given by the LPO and CEO to utilise the framework.
- 33.2 If a framework agreement arranged by a procurement consortium is to be used and the above criteria are met the AE will be responsible for obtaining all documentation to meet the requirements of these rules including but not limited to
- the service providers insurance documents
 - the service providers financial check information to show the company is financially stable.

34.0 FRAMEWORK AGREEMENTS

- 34.1 Framework agreements may be established for goods, services or works that are needed on a regular basis. Before seeking expressions of interest for a framework the LPO must authorise the framework procurement.
- 34.2 Once approval is given for the framework to be established by the LPO advertisements must be placed for inclusion on the framework on the Source East Midlands web site and if the value of the works, services and/or goods exceeds the EU thresholds the advertisement must also be placed in the European Journal. Advertisements can also be placed in other media if it is felt that this would attract more market competition providing such advertisements are agreed with the LPO.
- 34.3 Selection of organisations onto the framework must follow a tender process and be in accordance with these rules. The framework agreement must not exceed four years and all appointments to the framework must be approved by the LPO and authorised by the CEO.
- 34.4 Where more than one service provider is appointed to deliver a service or supply goods under a framework agreement the EU rules state that a specific contract can be awarded
- By application of the terms laid down in the framework agreement without re-opening competition; or
 - By re-opening competition between the operators which are a party to that framework
- 34.5 Any mini competition must be based on the criteria used to establish the framework and can include such things as technical expertise and capacity if these were part of the original criteria.