

UK GOVERNMENT TIMBER PROCUREMENT POLICY

Timber Procurement Advice Note November 2005

Purpose

This Note informs central Government departments of the procedures for purchasing legal and sustainable timber and wood derived products. Further information is available from the CPET website www.proforest.net/cpet or by calling the CPET helpline on 01865 243766.

1. UK Government Policy

The UK Government timber procurement policy requires its central departments to actively seek to purchase legal and sustainable timber and wood derived products. This remains as announced by the Minister for the Environment on 28 July 2000 - see <http://www.sustainable-development.gov.uk/delivery/integrating/estate/procurement-guidance.htm>

1.1 Legal Timber

Contract Condition

The standard contract condition at Annex A requires contractors to ensure that any timber or wood derived products supplied to the Government, whether as solid wood (e.g. planks, plywood) or as part of a product (paper, furniture, printed materials), were derived from legally harvested trees. This means that purchasing anything other than legal timber should be avoided as a rule. Bidders who qualify their offers in this respect should not normally be allowed to progress to the tender evaluation stage.

The standard condition of contract at Annex A should be used as a Supplementary Condition to the General Conditions of Contract in use by individual departments, their agencies and sponsored bodies for all contracts that may involve the supply or use of timber and wood derived products, including PFI agreements.

The condition applies to all virgin timber and wood derived products used by contractors to perform contracts on government premises, including temporary site works, and material supplied by subcontractors. The condition does not apply to 'recycled timber' (as defined at Annex A, Supplementary Conditions of Contract: Timber and wood derived products).

A paragraph for inclusion in ITT letters to draw tenderers' attention to the new Condition is at Annex C.

1.2 Sustainable Timber

Minimum Specification Requirement

The basic specification should be limited to the technical and physical characteristics of the timber or products required. This will set the minimum quality standard acceptable for performance of the contract. There should be no reference to 'sustainable' timber criteria in the basic specification. This minimum standard is acceptable as a fallback if a competing bid is unable to produce an acceptable offer for 'sustainable' timber – see following paragraph.

Variant Specification for Sustainable Timber

Tenderers should be given the option of offering sustainable timber **as an addition** to the minimum specification. A model variant specification is at Annex B and is discussed in more detail in paragraph 3.4 below. This variant specification includes all the minimum criteria, plus additional criteria that require the majority of the timber and wood derived products supplied to be either recycled or from a sustainable source. This higher quality variant is the preferred choice of the UK Government. In all competitions the Authority should choose this variant bid if financial considerations support such an approach (section 3.4).

2. Support for Implementation

A central point of expertise on timber (CPET) website provides information and advice on procuring legal and sustainable timber and dealing with specifications, selecting tenderers, bid evaluation and contract compliance. It is supported by a Helpline, which is open for use by **ALL** public procurers and their suppliers. The Helpline is available **free of charge (initially)** and is available between **9am and 5pm Monday – Friday**.

CPET website www.proforest.net/cpet

CPET Help Line Telephone number - 01865 243766.

***Note.** Progress made by Departments in implementing the Government's commitment on timber procurement is reported in the annual Sustainable Development in Government reports: <http://www.sustainable-development.gov.uk/publications/report2004/partf.htm>*

3. Stages of the Procurement Process

3.1 User Requirement

Specify requirements in performance output terms rather than demanding particular species unless unavoidable. This will give suppliers more flexibility in finding well-managed forests for their sources of timber. Recycled wood of any description is preferable, if it meets the technical specification.

If the project team advises that only a particular species will meet the technical specification then seek confirmation from experts that there are no other species that would be technically acceptable and find out if the chosen

species stands a reasonable chance of being grown in a well-managed forest. If the species in question is unlikely to be grown in a well managed forest then that may raise concerns over a supplier's ability to comply with the condition to supply timber from a legal source, and prove it. Where it is not feasible to specify the requirement in performance output terms, then ask those responsible for writing the technical specifications to consider lesser-known species/timbers. If it is necessary to demand that the products supplied are made from a particular species then the buyer needs to ensure that trade is not disproportionately restricted. For example, to specify European Oak would be acceptable, but to specify English Oak would not. European Oak refers to a species (*Quercus robur/petraea*), recognised in BS 13556: 2003 whereas 'English' oak refers to any species of oak from England (including *Quercus robur/petraea*). Similarly, Scots Pine (*Pinus sylvestris*) would be acceptable because it refers to a species of timber that is grown widely in Europe, whereas 'Scottish' pine would be unacceptable.

3.2 Selection of Suppliers to Invite to Tender

As part of the technical capacity criteria the authority can notify potential suppliers that their record in supplying timber from legal and sustainable sources will be assessed.

For goods and service contracts the Authority can consider track record over the last three years but cannot go beyond that and must restrict consideration to the supply of goods of a similar type. For works contracts the time limit is 5 years. Evidence of failure to supply legal (or legal and sustainable) timber where there was a promise to do so can be taken into consideration when assessing how well suppliers meet the selection criteria.

You can ask for evidence (including independent verification) of systems employed to ensure chain of custody throughout the supply chain and reject suppliers if they are unable to show that they have the capacity to do this.

You cannot reject a supplier simply because an allegation of illegal conduct has been made. Examples of illegal conduct in this context are trading in illegally logged timber and corruption. Only if a firm has been convicted of a criminal offence, or is found guilty of grave professional misconduct in the course of their business, can you reject a supplier. Once timber and wood derived products have been imported into the EU it is not illegal to trade in timber that is alleged to be illegally logged. The Authority's reaction to any such misdemeanour must be proportional and any attempt to subsequently rectify an offence by a supplier must also be taken into account.

Membership of the UK Timber Trade Federation's responsible purchasing policy will indicate importers and manufacturers who are endeavouring to obtain timber from well-managed forests. In the absence of any equivalent evidence from competitors an Authority may decide to rank RPP members higher than non-members for this element of a supplier's track record. However, an Authority must not restrict its selection to member companies only.

3.3 Invitation to Tender

In the ITT letter draw attention to the timber condition requiring the contractor to supply legal timber or wood derived products and to arrange and pay for independent verification if requested – see Annex C.

Legal timber and wood derived products are now the minimum standard required. There is no need to refer to legality in the basic specification because this is a condition of contract. The specification can be limited to technical and performance characteristics and other physical criteria, quantities etc.

Include the model variant specification for timber from a sustainable source at Annex B. It is recommended that this be kept as a separate document from the basic specification to avoid confusion. It should be listed on the form of tender as an optional document for return. Tenderers should be invited to either strike out the reference to it on the form of tender if they do not wish to offer sustainable timber or, alternatively, sign and return this document as part of their tender if they do wish to offer sustainable timber. To avoid any doubt and confusion as to precisely what is being offered, it is important that tenderers sign and return the model variant specification for timber from a sustainable source at Annex B only if they want to offer sustainable timber.

The option for tendering a variant should be clearly stated in OJEU Contract Notices.

The concept behind the minimum and variant standard options is that the field of competition is not closed to suppliers who do not offer sustainable timber but those that do will have a distinct competitive advantage.

Note. At some future stage a second variant may be introduced covering timber that can be independently shown to have come from a forest that is progressing towards full sustainable management.

A model paragraph for inclusion with the ITT letter is at Annex C

3.4 Contract Award

When a supplier indicates that he cannot perform the contract conditions, including the condition on the supply of legal timber, then that bid should not be considered further.

In the event of no tender offering fully compliant bids under the open or restricted procedures of the EC Public Procurement Directives then the Authority needs to assess whether to reject all bids and re-tender (with all the consequent time and cost implications) or to move to the negotiated procedure.

The evaluation panel should divide tenders opened into variant and non-variant bids. Variant bids may be more expensive than non-variant bids. That is because some suppliers may have to invest in new tracking systems or

change their supply chains to meet demand. Those suppliers who already have systems in place should have a competitive advantage and more will be encouraged to follow suit. Some suppliers may decide to bear any additional costs to gain market access. Where there is a difference in price between variant and non-variant bids the Authority must decide whether the premium is affordable and represents an efficient and effective use of resources. Where the variant bid does meet the affordability and effectiveness tests then the variant option should be preferred. It is then a matter of awarding the contract on the basis of the best value for money within the option (either variant or non variant) chosen.

Evidence of compliance can be provided by a recognised certification scheme (Category A evidence) or through other acceptable evidence (Category B evidence).

A tenderer may indicate as part of his variant bid that the sustainable timber source offered will not be from a certified source but that some form of equivalent assurance (Category B evidence) can be provided. Even though you may have doubts as to a tenderer's ability to obtain independent verification you must take that offer at face value as a legitimate promise. As part of the bid clarification you can remind that tenderer of the contract condition obliging him to obtain independent verification if requested post-award and the implications of failure to perform – see below.

3.5 Contract Management

An Authority may request documentary evidence before the timber/wood product is delivered. This may present difficulties for the supplier but, where reputations are at risk, it is in both parties' interest to clarify the timber sources before resorting to rejecting deliveries.

Information on which evaluated certification schemes meet the UK Government's criteria for Category A evidence can be found in Annex D or on the CPET website. Schemes that have not yet been evaluated should be treated as Category B evidence for which clarification can be sought through CPET. An Authority should not dismiss evidence simply because it isn't in the form of a recognised certificate. A supplier may have engaged a third party to produce an independent assessment (Category B evidence). When in doubt seek advice from CPET.

There will be occasions when suppliers use their best endeavours to ensure that their supply chain provides legal and, where promised, sustainable wood but are unable to provide credible evidence. The Authority will need to consider whether there has been a clear breach and, if so, to consider notifying other Authorities who in turn can take non-performance into account when selecting suppliers to invite to bid for future contracts.

Government departments are reminded that their duty is to actively seek to acquire timber and wood derived products from legal and sustainable sources. Final decisions must be made in the light of information available, advice given, affordability, value for money and operational

exigencies. Where a decision is taken to purchase timber and wood derived products that cannot be shown beyond reasonable doubt to come from a legal source, or to take no action in the event of a contractor being unable to demonstrate contract compliance, an audit trail leading to such decisions should be maintained.

Annex A

Supplementary Conditions of Contract

Timber and wood derived products

1. Definition of Timber

1.1 For the purposes of the Contract Specification 'timber and wood derived products' is deemed to include any product that contains wood or wood fibre, with the exception of 'recycled' materials (see below). Such products range from solid wood to those where the manufacturing processes obscure the wood element (e.g. paper). Timber and wood derived products supplied or used in performance of the contract that have been reclaimed or re-used are referred to as 'recycled' timber, which is further defined below. Timber and wood derived products supplied or used in performance of the contract that are not recycled are referred to as 'virgin' timber when the distinction needs to be made for clarity.

2. Convention on International Trade in Endangered Species (CITES)

2.1 The Contractor shall ensure that no virgin timber or wood derived products it procures for supply or use in performance of the contract shall have derived from any species of tree that is protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) unless the supplier can prove, by producing official documentation, that he has complied with the CITES requirements that permit trading in the particular species of tree so listed under that Convention.

3. Recycled Timber

3.1 'Recycled timber' in the context of this Contract means recovered wood that prior to being supplied to the Authority had an end use as a stand alone object or as part of a structure. . The terms 'recycled', 'reclaimed' and 're-used' are used interchangeably and cover the following categories: pre consumer recycled wood and wood fibre or industrial by products but excluding sawmill co-products (sawmill co-products are deemed to fall within the category of virgin timber), post consumer recycled wood and wood fibre and drift wood.

4. Legal Timber

4.1. All timber and wood derived products procured by the Contractor for supply or use in performance of the contract shall be Legal Timber. The term 'Legal Timber' in the context of this Contract Condition refers to the timber from a forest that meets the requirements set out in the document titled "*UK Government Timber Procurement policy- Definition of 'legal' and 'sustainable' for timber procurement*" (available from the Authority on request and visible on the UK Government authorised Central Point of Expertise on Timber web site). The edition current on the day the Contract is awarded shall apply. In

summary, the organisation or body that felled the trees and provided the timber from which the wood supplied under the Contract derived shall have had legal use rights to the forest, complied with all relevant local and national laws and codes of practice including environmental, labour and health and safety laws and paid all relevant royalties and taxes.

5. Proof of Legal Timber

5.1 Before delivering any timber or wood product under this contract, the Contractor shall obtain documentary evidence that the timber and wood derived products is 'legal timber'. If requested in writing by the Authority, the Contractor shall submit such documentary evidence to the Authority either prior to delivery or at such other times as the Authority may require. The Contractor shall identify, as part of the evidence submitted, a chain of custody from the forest source of the timber or wood product through to delivery of the final product.

5.2 The Authority reserves the right at any time during the execution of the Contract and for a period of 6 years from final delivery under the Contract to require the Contractor to produce the evidence required for the Authority's inspection within 14 days of the Authority's written request.

5.3 The Contractor shall maintain records of all timber and wood derived products delivered to and accepted by the Authority *[as detailed on the Form described in the Contract Specification – delete if not applicable]*. Such information shall be made available to the Authority if requested at any time.

6. Independent Verification

6.1. The Authority reserves the right to decide whether the evidence submitted to demonstrate legality is adequate to satisfy the Authority that the timber or wood product is 'legal timber'. In the event that the Authority is not so satisfied, the Contractor shall, on written request by the Authority, commission and meet the costs of an 'independent verification' and report that will (a) verify the forest source of the timber or wood and (b) assess whether the source meets the criteria for legality as defined in Clause 4 of this Supplementary Condition).

6.2 In this Contract 'Independent Verification' means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to *ISO Guide 65:1996 (EN 45011:1998) General requirements for bodies operating product certification systems* or equivalent: and who is accredited to audit against forest management standards by a body whose organisation, systems and procedures conform to *ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies* or equivalent.

6.3 Where the Contract Contractor promises to deliver 'sustainable' timber, as defined in the Variant Specification for Timber from a Sustainable Source, and to submit evidence to demonstrate compliance, the Authority reserves the right to decide whether the evidence of timber production is sufficient to

satisfy the Authority that the specification has been fully complied with. In the event that the Authority is not so satisfied, the Contractor shall, on written request by the Authority, commission and meet the costs of an 'independent verification' and report to (a) verify the forest source of the timber or wood products and (b) assess whether the source meets the criteria for sustainability (as defined in the *UK Government Timber Procurement policy: Definition of legality and sustainability* edition current on the day the Contract is awarded

6.4 In this context 'independent verification' has the same meaning as defined in section 6.2.

7. Proof of Source of Recycled Timber

7.1. The requirements of Conditions 5 and 6 for documentary evidence and independent verification shall also apply to recycled timber except that tracking shall be back to the previous use, not the forest source.

8. Authority's Right to Reject Timber

8.1 The Authority reserves the right to reject any timber or wood derived products that do not comply with the provisions of these Conditions or the Contract Specification. Where the Authority exercises its right to reject any timber, the Contractor shall supply alternative timber, which does so comply, at no additional cost to the Authority and without causing delay to the Contract completion period.

UK Government Timber Procurement Policy

Model Contract Specification Clause (revised November 2005)

Variant Specification for Timber from a Sustainable Source

1. Sustainable Timber and wood derived products

- 1.1 The Contractor shall take all reasonable steps to ensure that at least 70% (by volume or weight) of each category of timber and wood derived products acquired by the Contractor for supply or use in the performance of the contract shall be either - (a) 'recycled timber' as defined in the General Conditions of Contract paragraph 3; or (b) timber from a 'sustainable source' as defined below; or (c) a combination of (a) and (b). A category in this context means timber and wood derived products supplied for a specific purpose distinct from that for which other timber and wood derived products is required. For example, hardwood window frames, wall panelling, floor joists, furniture, site hoardings are each separate categories. Where a certified product provides assurance that a minimum of 70% of the timber was from a well managed forest but does not identify the actual percentage then the Contractor shall ensure that the entire category is so certified.
- 1.2 The term 'sustainable source' in the context of this Contract Specification refers to production and process methods, also referred to as sustainable timber production standards, as defined by the document titled "*UK Government timber procurement policy: Definition of 'legal' and 'sustainable' for timber procurement*"(available from the Authority on request and visible on the UK Government authorised Central Point of Expertise on Timber web site). The edition current on the day the Contract is awarded shall apply.

2. Sustainable Timber Production Standards.

- 2.1 The standards and criteria set for demonstrating attainment of such standards will be acceptable to the authority only if they can be independently verified as appropriate for meeting the sustainable timber production standard objectives specified in 1.2.
- 2.2 Management of the forest or plantation shall be audited at intervals confirming ongoing good forest management and by organisations with appropriate forest management experience that are independent of the organisation that holds timber harvest and/or management rights for that forest.

3. Proof of Virgin Timber Origin

- 3.1 Where 'Category B' evidence (as defined in 3.2) is to be made available, the Contractor is required to notify the Authority of the source or sources of all virgin timber and wood derived products supplied. Source in this context means the forest or plantation where the trees were grown and all subsequent places of delivery through the supply chain prior to receipt by the Authority. The Contractor shall separately identify virgin timber and wood derived products supplied from forests and plantations that are claimed to be subject to sustainable timber production and shall submit to the Authority documentation in respect of such wood to confirm that the criteria for sustainable timber production set out in this specification have been met.
- 3.2. The Authority will accept evidence from either or both of the following two categories:
- 3.2.1 **Category A evidence:** Certification under a scheme recognized by the UK Government as meeting the criteria set out in the document titled "UK Government Timber Procurement Policy: Criteria for Evaluating Category A Evidence" (available from the Authority on request and visible on the UK Government authorised Central Point of Expertise on Timber web site). The edition current on the day the Contract is awarded shall apply. A list of assessed certification schemes that currently meet the government's requirements can be found at Annex D.
- 3.2.2. **Category B evidence:** Documentary evidence other than Category A evidence that provides assurance that the source is sustainable. In this context "sustainable" is defined in the document titled "*UK Government Timber Procurement Policy: Evaluation of Category B Evidence: Methodology* (available from the Authority on request and visible on the UK Government authorised Central Point of Expertise on Timber web site). The edition current on the day the Contract is awarded shall apply. Such Category B evidence may include, for example, independent audits and declarations by the Contractor or his suppliers.
- 3.3 The Contractor's attention is drawn to the General Conditions of contract which requires him or her to provide credible evidence on the source of products supplied that has been or can be independently verified as such by an individual or body whose organisation, systems and procedures conform to *ISO Guide 65:1996 (EN 45011:1998) General Requirements for Bodies Operating Product Certification Systems* or equivalent: and who is accredited to audit against timber production standards by a national or international body whose organisation, systems and procedures conform to *ISO 17011: 2004 General Requirements for Providing Assessment and Accreditation of Conformity Assessment Bodies* or equivalent. This condition is met automatically where Category A evidence is supplied.

3.4 The Contractor's attention is also drawn to the Supplementary Condition of Contract relating to timber and wood derived products in respect of the Contractor's obligation to ensure that all timber and wood derived products acquired for supply or use in performance of the contract is legal, as defined in paragraph 4.1 of the General Conditions of Contract.

Signed.....

Name in Capitals (as in tender).....

For and on behalf of

Date.....

MODEL ITT LETTER PARAGRAPH ON TIMBER

The tenderer's attention is drawn to the contract requirements governing the supply and use of timber and wood derived products in performing the contract. It is UK Government policy to require that all timber is from legal sources. Further, where possible, timber and wood derived products should be obtained from sustainable sources. Timber and wood derived products in the context of this Contract includes any product that contains wood or wood fibre supplied to the Authority or used by the Contractor, his agents and subcontractors in performance of the Contract.

The Contract Conditions require that all timber and wood derived products supplied to the Authority or used by the Contractor in performing the Contract are legal, as defined by the Contract. The Authority will reject any bid that cannot offer to provide independent verification that all timber and wood derived products used in the Contract meets this requirement.

Further, a Variant Specification covering the sustainable criteria has been included with the draft contract documents for tenderers to incorporate in their tender should they choose to offer timber from a sustainable source. Tenderers who submit Variant bids must also submit a separate standard bid that may be priced differently. The Authority reserves the right to restrict the final evaluation to variant bids only provided they are affordable and provide an effective and efficient use of expenditure. Alternatively, the Authority reserves the right to evaluate standard bids only. In either case the contract will be awarded to the most economically advantageous compliant tender.

In summary, tenderers are offered the option of providing either:

- (a) – Timber and wood derived products that are legal (this is a condition of contract and so is an absolute minimum requirement); or
- (b) – A standard tender as in (a) above plus a separate tender for Timber and wood derived products that are both legal and from a sustainable source.

The Authority would prefer to award the contract to an offer to supply both legal and sustainable timber and will do so if it represents value for money

Annex D

Category A evidence: Certification schemes recognised as delivering UK Government requirements for timber procurement

The UK Government periodically evaluates and re-evaluates certification schemes to establish their adequacy in assuring that UK Government timber procurement requirements are being met. This Annex was last updated in November 2005. If you are using a hard copy of this guidance and are not sure if this Annex is up-to-date you can check:

- The electronic version of this guidance is at:
<http://www.sustainable-development.gov.uk/delivery/integrating/estate/procurement-guidance.htm>
- The CPET website is at: www.ProForest.net/cpet

Currently, there are five certification schemes (listed below) whose certification programmes have been evaluated as satisfying the requirements for either sustainable and/or legal timber.

	Legal (100% from legal sources)	Sustainable (>70% from sustainable sources)
Canadian Standards Association	All certified products	Yes
Forest Stewardship Council	All certified products	Certified Products containing >70% certified or recycled raw material
Malaysian Timber Certification Council	Products containing 100% certified raw material	No
Programme for the Endorsement of Forest Certification (PEFC)	All certified products	Certified Products containing >70% certified raw material
Sustainable Forestry Initiative	All certified products	Certified Products containing >70% certified raw material