

## NORTH YORKSHIRE COUNTY COUNCIL

## AUDIT COMMITTEE

18 JULY 2013

## ANNUAL REVIEW OF THE CONTRACT PROCEDURE RULES

## Report of the Corporate Director – Strategic Resources

## 1.0 PURPOSE OF REPORT

- 1.1 To consider, for recommendation to the Executive, various proposed changes to the Contract Procedure Rules (“the Rules”).

## 2.0 BACKGROUND

- 2.1 According to the Terms of Reference of the Audit Committee one of its functions is:  
“To review and recommend to the Executive changes to the Finance, Contract and Property Procedure Rules”.
- 2.2 The need for changes to any of these Procedure Rules can arise from one or more of legislative/regulation changes, issues identified during the course of internal audit reviews and/or developments in business practice.
- 2.3 A review of the Rules is conducted by officers once a year but ad hoc reports can arise during the year if circumstances dictate. It is also proposed that a detailed review of the Finance, Contract and Property Procedure Rules is carried out every four years in time for the beginning of each new Council.
- 2.4 An extensive review of the Contract Procedure Rules has been undertaken by the Corporate Procurement Group with input from procurement colleagues. The resulting amendments to the Rules attempt to clarify and simplify the various procedures as well as to update and adapt the Rules in accordance with current procurement legislation.
- 2.5 The proposed amendments to the rely more heavily upon the Council’s risk based gateway procurement process that combines assessment and understanding of various aspects of risk with appropriate review and scrutiny at defined points in the procurement cycle. The process also places increased responsibility for procurement processes onto Directorate Procurement Champions. Members were given information about the gateway process at the Procurement Update session prior to the formal Audit Committee on 27 June 2013.

## 3.0 PROPOSAL

- 3.1 The proposed changes to the Contract Procedure Rules are set out in Appendix A.
- 3.2 The amended Contract Procedure Rules are attached at Appendix B.
- 3.3 A Table explaining the proposed amendments is attached at Appendix C.
- 3.4 There are a number of changes which will have an impact on the way in which works, goods and services are procured by the Council. These are as follows:
- (a) Re-structure of rules

There has been a wholesale re-structure of the Rules in order to make them clearer and simpler to understand. Whilst a number of officers undertake a large number of procurement exercises, many do not and only look at the rules when undertaking a procurement exercise for the first time. Feedback from colleagues was that the Rules were unwieldy and difficult to understand often with one topic being covered in a number of different rules. The proposed amendments seek to clarify the Rules by covering all aspects of one topic within one rule. For example the proposed

amendments to Rule 9 now separate the different types of procurement process into their own Rules with clear headings.

(b) Threshold change

It is proposed that the financial limit at which quotations and tenders must be invited should be increased. The threshold has not been amended since at least 2005 and, as such limits refer to the whole life value of the contract, it is felt appropriate to increase the financial limit at which quotations and tenders are sought. The proposed amendment accounts for increases in the threshold set by the Public Contracts Regulations 2006 at which point full European procurement processes must be undertaken. This has widened the gap between internal and external requirements and so it was felt appropriate to increase the threshold. The proposed amendment also accounts for the time value of money.

Members may be concerned about the effect of these changes in relation to the control environment. However having regard to last year's procurement activity (2012), of the 180 procurements, the changes would have had the impact of demoting 3 procurements to quote status and 6 from tenders to written quote status. This hopefully gives assurance that the proposed changes are measured and reasonable. Further detail will be available to Members at the meeting if required.

(c) Deletion of receipt of less than three quotes or tenders rule

It is proposed to remove the requirement to obtain approval from the CD-SR to proceed to award where fewer than 3 quotations have been received due to it being unnecessarily cumbersome. The County Council's Gateway Process and the role of the Directorate Procurement Champions will ensure this is monitored and governed satisfactorily.

(d) Removal of Risk Assessment Tool

It is proposed to remove the requirement to undertake a risk assessment as this is now covered by the County Council's Gateway Process in respect of procurement processes.

#### 4.0 **RECOMMENDATIONS**

4.1 That the Audit Committee recommends to the Executive the following changes to the Constitution -

- (a) The changes to the Contract Procedure Rules in Appendix A.

G FIELDING  
Corporate Director – Strategic Resources  
County Hall  
Northallerton

9 July 2013

#### **BACKGROUND DOCUMENTS**

None.

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# Contract Procedure Rules

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These Rules constitute the Council's Standing Orders in relation to contracts under Section 135 of the Local Government Act 1972 and apply to all contracts (excluding property contracts), including those made in the course of the discharge of functions which are the responsibility of the Executive.

## 1.0 INTRODUCTION

1.1 These terms will have the following meanings in the Contract Procedure Rules:-

<b>ACE(LDS)</b>	<u>means the</u> Assistant Chief Executive (Legal and Democratic Services)
<b>Constitution</b>	<u>means</u> the Council's Constitution of which these Rules form part.
<b>Contract</b>	<u>means</u> any agreement made between the Council and any other person which is intended to be legally enforceable and involves the acceptance of an offer made by one party to commit itself to an action or series of actions and subject to the exceptions in <b>Rule 2.2</b>
<b><u>Contract Register</u></b>	<u>means the register of Contracts maintained by the Council as set out in Rule 17.8</u>
<b>Contractor</b>	<u>means</u> a person <u>or entity</u> with whom the Council has a Contract
<b><u>CD-SR</u></b>	<u>means the Corporate Director Strategic Resources</u>
<b><u>CPG</u></b>	<u>means the Corporate Procurement Group</u>
<b>Council</b>	<u>means</u> North Yorkshire County Council
<b>Director</b>	<u>means the</u> Chief Executive Officer; Corporate Director Business and Environmental Services; Corporate Director Health and Adult Services; Corporate Director Children and Young People's Service; Corporate Director –Strategic Resources as the context requires
<b><del>CD-SR</del></b>	<del>Corporate Director – Strategic Resources</del>
<b><u>DPC</u></b>	<u>means a Directorate Procurement Champion</u>
<b>EU</b>	<u>means the</u> European Union
<b><u>EU Threshold</u></b>	<u>means the current threshold above which the PCR's apply, currently £173,934 for services and supplies and £4,348,350 for works</u>
<b><del>E-tenderingsourcing</del> system</b>	<u>means</u> the Council's chosen <del>E-tenderingsourcing</del> system (currently <del>SCMS</del> YorTender) or an approved <u>alternative</u>
<b><u>FPP</u></b>	<u>means the Forward Procurement Plan maintained as described in Rule 17.5</u>
<b><u>Framework Agreement</u></b>	<u>means an agreement with one or more public sector bodies which establishes an arrangement for:</u> <u>(i) multiple orders to be placed with one Contractor (a single supplier framework), or</u> <u>(ii) a framework of multiple Contractors to engage in further competitions (a multiple supplier framework)</u>

<b><u>Gateway Process</u></b>	<u>means the Council's risk based gateway procurement process that combines assessment and understanding of various aspects of risk with appropriate review and scrutiny at defined points in the procurement cycle.</u>
<b><u>ITT</u></b>	<u>means an Invitation to Tender</u>
<b>Leasing Agreement</b>	<u>means</u> a Contract for the provision of finance to enable goods or services to be obtained and where ownership in those goods does not automatically pass to the Council at the end of the Contract period.
<b><u>MEA</u></b>	<u><b>LDSO</b> means a Legal &amp; Democratic Services Officer</u>
<b><u>MEAT</u></b>	<u>means the Most Economically Advantageous Tender</u>
<b>Member</b>	<u>means</u> a member of the Council or co-opted member on a Council committee
<b>Officer</b>	<u>means</u> a Council employee or other authorised agent
<b>OJEU</b>	<u>means</u> the Official Journal of the European Union
<b><u>Participant</u></b>	<u>means a person or entity participating in a procurement process</u>
<b>Person</b>	<u>means</u> any individual, partnership, company, trust, other local authority, Government department or agency
<b><u>PQQ</u></b>	<u>means the Pre-Qualification Questionnaire</u>
<b><u>Procurement Manual</u></b>	<u>means the manual to accompany these Rules which provides detailed guidance on procurement techniques and the effect of the Rules</u>
<b>Procurement Strategy</b>	<u>means</u> the Council's Procurement Strategy as agreed from time to time.
<b>Property Contract</b>	<u>means</u> a Contract which creates an estate or interest in land or buildings
<b><u>PCR</u></b>	<u>means the Public Contracts Regulations 2006 (as amended)</u>
<b>Responsible Officer</b>	<u>means</u> the Officer who is responsible for the procurement and/or management of a Contract
<b>Rules</b>	<u>means</u> these Rules
<b>Tenderer</b>	<u>means</u> a person who has expressed an interest in tendering for a Contract or who has tendered for a Contract
<b><u>Veritau</u></b>	<u><b>Internal Audit</b> means the Council's appointed internal audit contractor auditors (currently Veritau)</u>
<b>YPO</b>	<u>means</u> the Yorkshire Purchasing Organisation

## 1.2 References in these Rules to:-

- (a) any legislation (e.g. Act, Statutory Instrument, EU Directive) include a reference to any amendment or re-enactment of such legislation;

- (b) the value of any Contract are to the total estimated aggregate gross value payable over the full period of the Contract including any options or extensions to the Contract without any deduction for income due to the Contractor or the Council;
- (c) the singular include the plural and vice versa;
- (d) the masculine include the feminine and vice versa;
- (e) Directors, the CD-SR and the ACE(LDS) shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-

(i)	Director	-	<u>Rules 3-38.8, 8.9, 12.2, 16.1(h), 16.3 and 18.1</u>
(ii)	CD-SR	-	<u>Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(h), 16.3, 17.3 and 2.518.1</u>
(iii)	ACE(LDS)	-	<u>Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(h) and 2.5</u> <u>16.3</u>

where delegation is not permitted. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the CD-SR and the ACE(LDS).

## 2.0 GENERAL

- 2.1 These Rules are made by the Council on the advice of the CD-SR (in consultation with the ACE(LDS)) under Article 14.02 of the Constitution.
- 2.2 These Rules apply to all Contracts for works, goods, supplies and services but do not apply to:-
  - (a) Contracts of employment;
  - (b) Property Contracts; and (which are covered by the Property Procedure Rules); and
  - (c) financial instruments (including, but without limitation, shares, bonds, bills of exchange, future or options Contracts) (which are covered by the Financial Procedure Rules).
- 2.3 The Council has made Financial Procedure Rules under Article 14.01 of the Constitution which shall be applied in conjunction with these Rules.
- 2.4 The CD-SR (in consultation with the ACE(LDS)) shall review the application and effect of these Rules and make an annual report or as required but no less than once per year to the Audit Committee recommending such amendments to the Rules as are considered appropriate.
- 2.5 The CD-SR and the ACE(LDS) have produced a Procurement Manual which provides detailed guidance on procurement techniques and the effect of the Rules. The Procurement Manual also sets out important issues to be considered in the procurement context including, but not limited to, These Rules should be read in conjunction with the following: Procurement Manual.

- ◆ TUPE
- ◆ Sustainability
- ◆ Equalities

- 2.5.1 The CD-SR has also produced a *Finance Manual* which gives advice on financial procedures.
- 2.6 Where a Contract for the acquisition or hire of goods or services involves any form of leasing agreement to finance the transaction then the CD-SR shall undertake the negotiation of terms and authorise the arrangement in accordance with Rule 9.3 of the Financial Procedure Rules.
- 2.7 Directors shall ensure that all documentation relating to Contracts and procurement processes (including quotations) is retained in accordance with the Council's Records Retention and Destruction Schedule.
- 2.8 Where the Council has awarded a Contract to any person to supervise or otherwise manage a Contract on its behalf such a person shall be required to comply with these Rules as if he were an Officer of the Council.
- 2.9 Wherever possible and appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to PQQ's, invitations to tender or to submit quotations. ~~The standard pre-qualification questionnaire must be used for all procurements.~~ Wherever alternative documents are to be used they must be approved by ACE(LDS) in consultation with CD-SRCPG (or Corporate Procurement Lead) as appropriate.

### 3.0 COMPLIANCE WITH LEGISLATION AND STANDARDS

- 3.1 Every Contract shall comply with all relevant applicable legislation and government guidance including:-
- (a) EU Law
  - (b) Acts of Parliament
  - (c) Statutory Instruments including, but without limitation, the Public Contracts Regulations 2006.
- 3.2 Where relevant, every Contract shall specify that materials used, goods provided, services supplied or works undertaken (as the case may be) shall comply with applicable standards. Such standards are, in order of priority:-
- (a) EU Standards
  - (b) British Standards implementing international standards
  - (c) British Standards

### 4.0 POWERS AND KEY DECISIONS

- 4.1 In consultation with the ACE(LDS) Directors shall ensure that the Council has the legal power to enter into any Contract and that in respect of all Contracts, regardless of whether they involve the procurement or provision by the Council of works, supplies or services Directors shall ensure that no Contract shall be entered into which is ultra vires.

4.2 Directors shall ensure that a written record of the decision to procure a Contract is made and, where such a decision comprises a Key Decision under the Constitution, Directors shall ensure that it is entered on to the Forward Plan and treated as a Key Decision in all respects.

## 5.0 ~~SIGNATURE/SEALING OF CONTRACTS~~

~~5.1 Every written contract must be either signed or sealed in accordance with this Rule and where contracts have a value exceeding £50,000 they must be either sealed, or signed by two Officers as described below.~~

~~5.2 The ACE(LDS) and such of her staff as she may designate are authorised to sign any such contract.~~

~~5.2.1 The ACE(LDS) also authorises such contracts to be signed by Directors (or by an Officer authorised by a Director to sign on the Director's behalf) up to and including the financial limits in Rule 5.3 provided that:-~~

~~(a) appropriate authority exists for the Council to enter into the Contract, and~~

~~(b) the Contract is either:-~~

~~(i) in a nationally recognised form, or~~

~~(ii) a standard form prepared or approved by the ACE(LDS), or~~

~~(iii) is otherwise in a form approved by the ACE(LDS)~~

~~and~~

~~(e) any variations to approved forms of Contract must themselves be approved by the ACE(LDS), whether or not they are effected by amending the Contract itself or by correspondence~~

~~5.3 The financial limits relating to Rule 5.2 are:~~

~~(a) Health and Adult Services Directorate, Business and Environmental Services Directorate and Central Services Directorate  
£500,000~~

~~(b) Children and Young People's Service Directorate  
£200,000~~

~~(c) Chief Executive Officer's Unit  
£50,000~~



~~5.4~~ Contracts that exceed the financial limits specified in ~~Rule 5.3~~ shall be signed by:

~~(a) the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by her); and~~

~~(b) an authorised signatory in the relevant Directorate (or another Legal and Democratic Services' Officer authorised by the ACE(LDS)).~~

~~5.5 Only the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by the ACE(LDS)) may seal a contract on behalf of the Council, in each case being satisfied that there is appropriate authority to do so.~~

## ~~6.0~~ FORM OF CONTRACT

~~65.1~~ Every Contract exceeding £100 in value shall be evidenced in writing (by the use of an order form, exchange of correspondence or other written medium).

~~65.2~~ Every Contract exceeding £20,000 in value shall be documented by a written form of agreement. Wherever appropriate and possible, such written agreements shall be made on the basis of terms and conditions agreed by the ACE(LDS) ~~(in consultation with the CD-SR).~~ Such terms and conditions may be incorporated into standard order conditions. The Council may accept different terms and conditions proposed by a Contractor provided that the advice of the ACE(LDS) as to their effect has been sought and considered.

~~65.3~~ The written form of agreement for all Contracts exceeding £20,000 in value must clearly specify the obligations of the Council and the Contractor and shall include:-

- (a) the work to be done or the goods or services to be supplied
- (b) the standards which will apply to what is provided
- (c) the price or other consideration payable
- (d) the time in which the Contract is to be carried out
- (e) the remedies which will apply to any breach of Contract.

~~65.4~~ Where considered appropriate by the CD-SR, term contracts and framework contracts may include a financial limit above which value, work to be done or goods or services to be supplied shall be subject to a separate procurement exercise in accordance with these Rules.

~~65.5~~ The written form of agreement for all Contracts exceeding £20,000 in value must include the following or equivalent wording:-

- (a) "If the Contractor:-
  - (i) Has offered any gift or consideration of any kind as an inducement or disincentive for doing anything in respect of this Contract or any other Contract with the Council, or
  - (ii) Has committed any offence under the Prevention of Corruption Acts 1889 to 1916 or the Bribery Act 2010, or
  - (iii) Has committed an offence under Section 117 (2) of the Local Government Act 1972

the Council may terminate the Contract immediately and will be entitled to recover all losses resulting from such termination".

- (b) "If the Contractor is in persistent and/or material breach of Contract the Council may terminate the Contract and purchase the supplies, works or services from a third party and the Council may recover the cost of doing so from the Contractor"-"

6.5.46 The standard clauses contained in the Procurement Manual relating to the Freedom of Information Act 2000 and the Data Protection Act 1998 shall, wherever possible, be included in all Contracts exceeding £20,000 in value.

5.7 Other standard clauses are contained in the Procurement Manual relating to, for example, ~~freedom of information, data protection,~~ equalities, the Public Services (Social Value) Act 2012, sustainability and best value; these are not mandatory for each such written agreement referred to in **Rule 65.5** above, but should be included where appropriate.

## 6.0 SIGNATURE/SEALING OF CONTRACTS

6.1 Every written Contract must be either signed or sealed in accordance with this Rule. Where Contracts have a value exceeding £50,000 they must be either sealed, or signed by two Officers as described below.

**Comment [CM1]:** Recommendation is £100k but on understanding that formal schemes of delegation are sorted out.

6.2 The ACE(LDS) and such of her staff as she may designate are authorised to sign any Contract.

6.2.1 The ACE(LDS) also authorises such Contracts to be signed by Directors (or by an Officer authorised by a Director to sign on the Director's behalf) up to and including £500,000 provided that:-

(a) appropriate authority exists for the Council to enter into the Contract, and

(b) the Contract is either:-

(i) in a nationally recognised form, or

(ii) a standard form prepared or approved by the ACE(LDS), or

(iii) is otherwise in a form approved by the ACE(LDS); and

(c) any variations to approved forms of Contract must themselves be approved by the ACE(LDS), whether or not they are effected by amending the Contract itself or by correspondence

6.2.2 Contracts that exceed £500,000 shall be signed by:

(a) the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by her); and

(b) an authorised signatory in the relevant Directorate (or another Legal and Democratic Services' Officer authorised by the ACE(LDS)).

6.2.3 Only the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by the ACE(LDS)) may seal a Contract on behalf of the Council, in each case being satisfied that there is appropriate authority to do so.

## **7.0 BONDS AND LIQUIDATED DAMAGES**

- 7.1 Directors (in consultation with the CD-SR) shall consider whether to include provision for the payment of liquidated damages by a Contractor for breach of Contract in all Contracts which exceed ~~£20~~£100,000 in value. Such consideration shall be recorded in the Gateway Process (Gateway 2).
- 7.2 Where considered appropriate by a Director (in consultation with the CD-SR), the Contractor will be required to provide a performance bond to secure the performance of the Contract. Such performance bonds should provide for a sum of not less than 10% of the total value of the Contract or such other sum as the CD-SR considers appropriate.
- 7.3 Agreements made under Section 38 (adoption of new highways) or Section 278 (development of existing highways) of the Highways Act 1980 shall always include provision for a bond in respect of such sum as the Corporate Director Business and Environmental Services shall consider appropriate except where:-
- (a) the identity of the developer renders the need for a bond unnecessary, or
  - (b) adequate alternative security is provided, or
  - (c) the Corporate Director Business and Environmental Services (in consultation with the CD-SR) agrees that it is inappropriate for a bond to be required.

## 8.0 QUOTATIONS

- 8.1 Where the estimated value of a Contract is £5,000 or less the invitation of quotations is not mandatory, but written quotations should be invited where appropriate and best value should always be sought.
- 8.2.1 If the estimated value of a Contract exceeds £5,000 but is less than ~~£40~~£20,000 at least three written quotations must be invited from suitable potential Contractors. The estimated value of the Contract shall be recorded in writing prior to quotations being sought.
- 8.2.2 If the estimated value of a Contract exceeds ~~£40~~£20,000, but is less than ~~£50~~£100,000 at least three written quotations must be invited from suitable potential Contractors. The estimated value of the Contract shall be recorded in writing prior to quotations being sought and quotations must be invited using the E-~~tenderings~~sourcing system.
- 8.3 All potential Contractors invited to submit quotations shall be provided in all instances with identical information and instructions. Where considered appropriate, Directors may permit potential Contractors who have been selected to submit quotations under **Rule 8.2** to also submit variant quotations (ie quotations which do not comply with some or all of the requirements of the primary quotation). The same opportunity to submit variant quotations must be given to all potential Contractors.
- 8.4 A written quotation may only be considered if:-
- (a) it has been received electronically through the E-~~tenderings~~sourcing system, or
  - (b) it has been received in a sealed envelope marked "Quotation" and indicating the subject matter of the quotation and
  - (c) It has been opened after the expiry of the deadline for submissions and at the same time as other quotations for the same subject matter in the presence of at least two Officers authorised to open quotations.

~~8.5 Each Director shall maintain electronic or written records of all quotations received in accordance with the Document Retention Policy.~~

~~8.6~~ Before quotations ~~of a value in excess of £20,000~~ are requested it must be recorded in writing whether the lowest price or the ~~ME~~most economically advantageous quotation should be accepted. Where both price and quality are to be factors (ie where ~~ME~~the most economically advantageous quotation applies) the quality criteria must be identified and the weighting between price and quality established and recorded before quotations are requested. The criteria should be stated in the request for quotation sent to suppliers. ~~Advice should be sought from the CD-SR on the design and operation of any evaluation model to be used as part of the selection process.~~

8.7 Price/quality quotation evaluation models must be lodged with ~~Verita~~Internal Audit before any quotations are opened.

8.8 If :-

~~(a)~~ a quotation other than the lowest or the ~~ME~~most economically advantageous quotation (as the case may be) is to be accepted, ~~or~~

~~(b)~~ ~~fewer than three quotations have been received,~~

the written approval of the Director (in consultation with the CD-SR or if the relevant Director is the CD-SR, in consultation with the Chief Executive) shall be sought and obtained before the quotation is accepted.

8.9 A quotation for a price in excess of £~~50~~100,000 may be accepted if (and only if):-

(a) the original documented estimated price was less than £~~50~~100,000 **and**

(b) the price quoted does not exceed that original documented estimated price by more than 10% **and**

(c) the written approval of the Director (in consultation with the CD-SR) has been obtained.

If the conditions at (a), (b) and (c) are not met, Directors must seek tenders in accordance with **Rule 9**.

8.10 Where a quotation involves payment to the Council, the provisions of **Rules 8.6 and 8.8** shall apply except that the word "lowest" shall be replaced by the word "highest" in these paragraphs.

#### **Risk Assessment**

~~8.11 Quotations may be altered only in accordance with Rules 13.1 and 13.2~~

#### **Financial Stability**

8.11 Before a Contract is awarded after a quotation exercise such steps shall be taken, in conjunction with the CD-SR, as are reasonably necessary (having regard to the subject matter, value, duration of the Contract and other relevant factors) to complete a risk assessment of the potential Contractor's financial stability.

## 9.0 TENDERS

9.1 If the estimated value of the Contract is £50100,000 or more ~~electronic~~ tenders ~~must~~shall be invited ~~using the e tendering system~~ in accordance with the ~~following~~ provisions of this Rule.

9.2 If the estimated value of the Contract exceeds the limits set out in the Public Contracts Regulations 2006 the additional requirements for OJEU Procurements, set out in Rule 10.3, shall be followed.

### General Requirements

9.3 Before Directors invite tenders it ~~must~~shall be recorded in writing for all Contracts whether the ~~lowest~~Contract will be awarded on the basis of price or the ~~MEA tender is to be accepted. Where both~~Most Economically Advantageous Tender (MEAT), a combination of price and quality ~~are to be factors (i.e. where MEA applies).~~

9.4 If a Contract is to be awarded on the basis of the MEAT, the criteria to be used in the assessment of the quality ~~criteria must be identified elements of the tenders~~ and the weighting between price and quality shall be established and recorded in writing before tenders are invited. ~~The~~For all Contracts, the tender assessment criteria, sub-criteria and ~~weighting should~~weightings shall be stated in the Invitation to Tender ~~sent.~~

9.5 If a Contract is to tenderers. Advice should be sought from ~~awarded on a price only basis it shall be recorded whether the CD SR award will be made on the design and operation basis of the lowest Price or any evaluation model to be used as part of the selection process~~other tendered Price.

9.3 ~~6~~ All potential Contractors~~Participants~~ invited to submit tenders shall be provided ~~in all instances with identical instructions and information and instructions.~~

9.7 Where considered appropriate, a Director may, ~~(in consultation with the CD SR)DPC,~~ permit ~~potential Contractors who have been selected to submit tenders under Rule 9.1 to also~~Participants to submit variant tenders (ie tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant tenders ~~must~~shall be given to all ~~potential Contractors~~Participants. Variant tenders shall only be considered if the Participant also submits a compliant primary tender.

9.4 ~~Questionnaire and tender 8~~ Evaluation models ~~must for PQQ's and ITT's shall be~~ lodged with ~~Veritau~~Internal Audit before any submission documents are opened. The Evaluation Model shall not be divulged to potential Contractors.

9.59 Directors ~~must seek~~shall invite tenders on the basis of one of the ~~following procedures:-~~

#### **9.5.1 Restricted Tenders**

(a) ~~A notice inviting expressions of interest must be given on the e tendering system and, options identified in appropriate, in a newspaper (which may be local, regional, or national but must be appropriate for the subject matter of the contract) and/or in a suitable trade journal where appropriate. Consideration should be given to the subject matter and value of the contract when deciding which form of advertising to use. Where required an OJEU Contract Notice must also be placed. The notice must specify brief details of the subject matter of the contract and invite potential contractors to apply to the Council to be considered for invitation to tender by the Council. Details must be included in the notice specifying how such expressions of interest are to be submitted and the closing date for their receipt by the Council~~Rule 10.

~~(b) The deadline date must be at least 28 days after the first advertisement for the contract is published and, where relevant, at least 14 days after the last advertisement is published. Where an OJEU Notice is required, the deadline date must be in accordance with the timescales set out in the Public Contracts Regulations 2006.~~

~~(c) The selection criteria which are to be applied in evaluating expressions of interest must be recorded in writing before the expressions of interest are invited and must be stated in the documents sent to suppliers. Evaluation models must be lodged with Veritau before expressions of interest are opened.~~

~~(d) After expressions of interest have been received the Director (in 10.0 OPTIONS FOR TENDER~~

~~Tenders shall be invited on the basis of one of the following options:~~

### ~~10.1 Open Tenders~~

~~10.1.1 If a Director, in consultation with the CD-SR and such other Officers as are appropriate having regard to the subject matter and likely value of the contract) shall evaluate the expressions of interest received.~~

~~(e) After evaluation, invitations to tender shall be sent to at least five tenderers selected by the Director in consultation with the CD-SR or, if less than five tenderers applied or are considered suitable, such tenderers as have been selected by the Director (in consultation with the CD-SR).~~

~~(f) The award criteria which are to be applied in evaluating tenders must be recorded in writing before the tenders are invited and must be stated in the documents sent to suppliers. Evaluation models must be lodged with Veritau before tenders are opened.~~

### ~~9.5.2 Open Tenders~~

~~If a Director (in consultation with the CD-SR)DPC, considers it to be appropriate that any invitation to tenderITT shall be madeavailable to all potential contractors,Participants then the following procedures shall apply:-:~~

~~(i) An invitation to tenderA notice mustadvertising the opportunity shall be given enpublished through the E-tenderingsourcing system and, if considered appropriate, in a local newspaper (which may be local, regional or national but must be appropriate for the subject matter of the tender) and/or in a suitable professional or trade journal where appropriate. Consideration should be given to the subject matter and value of the contract when deciding which or website. The form of advertising to use. Where required, an OJEU shall take into account the value, location and subject matter of the Contract. Notice must also be placed. The notice mustshall specify brief details of the subject matter of the Contract, how the Invitation to Tender documents may be obtained and the tender closing date for receipt of tenders by the Council.~~

~~(ii) The deadline date mustfor the return of tenders shall be at least 28 days after the publication of the first advertisement forof the initiation to tender noticeITT and, where relevant, at least 14 days after the last invitation to tender noticeITT advertisement is published. Where an OJEU Notice is required, the deadline date must be in accordance with the timescales set out in the Public Contracts Regulations 2006.~~

~~(iii) The selection and award criteria which are to be applied in the evaluation of the tenders shall be recorded in writing before ITT's are issued and shall be included in the documents provided to all Participants.~~

(iv) The evaluation of the tenders shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.

(v) The evaluation tenders must model shall be lodged with Internal Audit before any submission documents are opened. The evaluation model shall not be divulged to Participants.

## **10.2 Restricted Tenders**

10.2.1 If a Director, in consultation with the DPC, considers it to be appropriate that any ITT shall be restricted to selected Participants by issuing a PQQ to all potential Participants followed by an ITT to those Participants selected at the PQQ stage then the following procedures shall apply:

(i) A notice advertising the opportunity and inviting expressions of interest shall be published through the E-sourcing system and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the value, location and subject matter of the Contract. The notice shall specify brief details of the Contract and invite potential Contractors to complete and submit a PQQ to the Council in order to be considered to be invited to tender. The notice shall include details as to how PQQ's are to be submitted and the closing date for their receipt by the Council.

(ii) The deadline date for the return of PQQ's shall be at least 28 days after the publication of the first advertisement of the opportunity and, where relevant, at least 14 days after the last advertisement is published.

(iii) The selection criteria which are to be applied in the evaluation of the PQQ's shall be recorded in writing before the tenders-PQQ's are invited and must shall be stated included in the document sent documents provided to all Participants.

(iv) suppliers. Evaluation models must The evaluation of the PQQ's shall be lodged carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.

(v) Veritau before After evaluation of the PQQ's, ITT's shall be published to at least five Participants or, if less than five potential Participants applied or are considered suitable, such Participants as have been selected by the Director.

(vi) The deadline date for the receipt of tenders shall be at least 40 days after the date of dispatch of the ITT's.

(vii) The criteria which are to be applied in the evaluation of the tenders are opened shall be recorded in writing before ITT's are published and shall be included in the documents provided to all Participants.

### **9.5.3 Approved Lists**

If a Director (viii) The evaluation of the tenders shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.

(ix) The evaluation model shall be lodged with Internal Audit before any submission documents are opened. The evaluation model shall not be divulged to potential Contractors.

### 10.3 OJEU Tenders

Tenders for Contracts which exceed the EU Threshold shall be invited and awarded as prescribed in Rule 10.1 or Rule 10.2 but taking into account the following amendments:

10.3.1 **Open Tenders:** the deadline date for the return of tenders shall be a minimum of 52 days after the publication of the first advertisement of the ITT. The actual deadline date shall be determined having taken into consideration the complexity of the Contract and the time required for the completion of the tender documents by potential Contractors.

10.3.2 **Restricted Tenders:** the deadline date for the return of PQQ's shall be at least 37 days after the publication of the first advertisement of the opportunity. The deadline date for the receipt of tenders shall be at least 40 days after the date of publication of the ITT.

10.3.3 The minimum deadline dates for **Open and Restricted tenders** may be reduced to a period generally not less than 36 days and in any event not less than 22 days if a Prior Information Notice (PIN) has been published in accordance with the Public Contract Regulations 2006.

### 10.4 Framework Agreements

10.4.1 If a Director considers it appropriate to establish a Framework Agreement then the Framework Agreement shall be established using the procedures set out in either Rule 10.1 or 10.2

10.4.2 The procedure prescribed by the Public Contract Regulations 2006 shall apply to all aspects of the procurement and to the subsequent operation of the Framework Agreement including, but not limited to:

(i) ~~the procurement methodology~~CD-SR)

(ii) the placement of orders under the Framework Agreement

(iii) further competition between Contractors appointed to the Framework Agreement

10.4.3 The duration of the Framework Agreement shall be limited, as prescribed by the Public Contract Regulations 2006, to a maximum of four years including any extension periods.

### 10.5 Approved Lists

10.5.1 If a Director considers it appropriate to maintain ~~an approved~~ a list of suitable Contractors for particular types ~~and/or values~~ of work and/or goods and/or services, ~~where~~ the estimated value of the work ~~and/or goods and/or services~~ is below the ~~limits set out in the~~ Public Contracts ~~Contract~~ Regulations 2006 ~~threshold the following,~~ the list of suitable Contractors shall be established using the procedures ~~shall apply-~~ set out below:

(+)10.5.2 A notice ~~must~~ inviting expressions of interest shall be ~~given or~~ published through the E-tendering ~~sourcing~~ system and, if ~~considered~~ appropriate ~~in,~~ a local newspaper (which may be local, regional or national but must be appropriate for the subject matter of the contract) and or in a suitable ~~and~~ a suitable professional or trade journal ~~where~~ appropriate. ~~The notice must~~ or website. The form of advertising shall take into account the value, location and subject matter of the Contract. The notice shall



specify brief details of the ~~subject matter of the approved list~~ Contract and invite potential Contractors to apply to the Council to be considered for inclusion on the approved list. ~~Details must be included on~~ by the Council. The notice ~~how such~~ shall include details as to how expressions of interest are to be submitted and the closing date for their receipt by the Council.

~~(ii)~~ 10.5.3 The deadline date ~~must for the return of expressions of interest shall~~ be at least 28 days after the publication of the first advertisement ~~for~~ of the approved list is published ~~expressions of interest~~ and, where relevant, at least 14 days after the last advertisement is published.

~~(iii)~~ 10.5.4 The selection criteria which are to be applied in ~~evaluating~~ the evaluation of the expressions of interest ~~must~~ shall be recorded in writing before expressions of interest are invited and ~~stated~~ shall be included in the documents ~~sent~~ provided to ~~tenderers before the expressions of interest are invited~~ all potential Contractors.

~~(iv)~~ 10.5.5 The evaluation of the expressions of interest ~~have been received~~ shall be carried out by Officers, nominated by the Director ~~(in consultation with the CD-SR and such other officers as DPC, who are considered appropriate having regard to~~ regards for the subject matter and ~~likely value of such type of contract(s))~~ shall evaluate the expressions of interest received ~~the Contract.~~ The Director shall then maintain a list of ~~such approved Contractors~~ categories categorised by works type and value ~~and/or type of contract as may be applicable.~~

~~(v)~~ 10.5.6 The Director shall review the performance of all Contractors on the approved list at regular intervals, not exceeding 12 months from the date of appointment of the Contractor to the approved list.

10.5.7 The Director may remove Contractors from an ~~existing~~ approved list where the Director and CD-SR ~~and the ACE(LDS)~~ agree that such removal is appropriate, having ~~regard to~~ regards for the conduct, performance and/or status of the Contractor ~~and all other relevant factors in relation to those standards identified in the original expressions of interest.~~

~~(vi)~~ 10.5.8 The Director ~~(in may, after consultation with the CD-SR)~~ may approve an application from a potential Contractor to be added to an existing Approved List.

~~(vii)~~ 10.5.9 Invitations to Tender or Invitations to Quote shall be ~~sent via the e-tendering system to at least five contractors on the approved list or to all contractors on the approved list if it includes fewer than five contractors invited in accordance with Rule 10 or Rule 8.~~

~~(viii)~~ 10.5.10 The Director shall maintain ~~arrangements so as to provide records of the CD-SR, on request, with a report of tenders or quotations invited from an approved lists which will include~~ list such that the names of ~~persons~~ the Contractors invited to tender and, ~~the reasons for selection, process and Contracts awarded to each Contractor are available for inspection.~~

~~(ix)~~ 10.5.11 Approved lists may remain in force for ~~no longer than five~~ a maximum of 5 years. Before the expiration of the approved list a replacement shall be established ~~(, if appropriate),~~ in accordance with Rule 9.10.5.3.

#### **9.5.4 Framework Agreements**

~~If a Director (in consultation with the CD-SR) considers it appropriate to establish a framework agreement then the framework will be established using the procedures set out in either Rule 9.5.1 or 9.5.2. The procedure prescribed by the Public Contracts Regulations 2006 shall~~

~~apply to all aspects of the procurement and operation of the framework agreement including (but without limitation):-~~

**10.6**

~~(i) the procurement methodology;~~

~~(ii) Any orders placed under the framework agreement;~~

~~(ii) The re-opening of competition between contractors who have been awarded framework agreement (ie further competitions); and~~

~~(iv) The duration of a framework agreement (which shall not exceed four years).~~

## **9.5.5 Negotiated Procedure and Competitive Dialogue**

**10.6.1** Where ~~the ACE(LDS) and the Director in consultation with~~ CD-SR agree that it is appropriate, the negotiated procedure or the competitive dialogue procedure may be used for the invitation of tenders in accordance with the ~~Public Contracts Regulations 2006~~ requirements of the PCR's.

## **~~10.0~~ GENERAL TENDER REQUIREMENTS**

### **~~10~~11.0 RECEIPT AND OPENING OF TENDERS**

**11.1** A written tender may only be considered if:-

- (a) it has been received electronically through the e-tendering system, or
- (b) (where permitted) it has been received in hard copy in a sealed envelope marked "Tender" and indicating the subject matter of the tender, and the identity of the tenderer cannot be ascertained from the tender envelope, ~~and~~
- ~~(c) —and, subject to Rule **1011.4**, the tenderer~~ has been returned electronically through in accordance with the instructions contained in the e-tendering system or to the ACE(LDS) (or a person designated by her) ITT before the tender closing date.

**1011.2** The ACE(LDS) (or a person designated by her) shall be responsible for the reception and safe custody of tenders until they are opened.

**1011.3** Tenders, whether electronic or hard copy must be opened at the same time and in the presence of the ACE(LDS) (or a person designated by her) or, where Legal and Democratic Services is undertaking the procurement, the CD-SR (or an Officer designated by him). Whoever opens the Tenders shall maintain a record of the tenders received. Such a record shall include the date and time of tender opening, the identity of the officer(s) present, the identities of tenderers and the tendered sums (where readily ascertainable). A copy of such a record shall be provided as soon as practicable to ~~Veri~~ the Director inviting the tenders and to Internal Audit.

**1011.4** If a Tender is received after the specified tender closing date it may not be considered unless the ACE(LDS) is satisfied that the Tender was submitted electronically or posted or otherwise dispatched in sufficient time to be delivered before the specified time but that delivery was prevented by an event beyond the control of the tenderer and that other Tenders have not been opened.

## **~~10.0~~ Risk Assessment**

### **~~10~~12**

~~10.5~~ ~~Before a Contract is awarded after a tender exercise such steps shall be taken, in conjunction with the CD-SR, as are reasonably necessary (having regard to the subject matter, value, duration of the contract and other relevant factors) to complete a risk assessment of the potential contractor's financial stability.~~

## **11.0 TENDER EVALUATION AND ACCEPTANCE**

**11.1** ~~Where tenders are to be evaluated on the basis of MEA or price only~~ The Director shall ~~re-evaluate tenders using the evaluation model to be used to score the selection and award criteria referred to in Rule 9.2 prior to the tenders being opened. The evaluation model should not be communicated to tenderers without the approval of the CD-SR (in~~

~~consultation lodged with the ACE(LDS)). A copy of the evaluation model should be sent to Internal Audit.~~

~~11.2 A summary of the selection and award criteria and sub-criteria in accordance with their weighting should be communicated to tenderers. A copy of all evaluation models must be sent to Veritau before any documents are opened. Rules 9.7, 10.1.1(v) and 10.21(ix).~~

~~11.3 Full evaluation models, marking guidance or model answers must not be communicated to Tenderers.~~

~~11.4.12.2 If :-~~

~~(a) a tender other than the MEAT or the lowest or the MEA (as the case may be) Price is to be accepted, or~~

~~(b) fewer than three tenders have been received~~

~~the written approval of the Director (in, after consultation with the CD-SR or, if the relevant Director is the CD-SR, in consultation with the Chief Executive Officer) must shall be obtained before a tender is accepted and a signed and dated record kept of the reasons for the action taken; shall be made however, no such approval can be given in respect of (a) above where that the contract is subject to the Public Contracts Regulations 2006 PCR's other than in exceptional circumstances agreed by the ACE(LDS).~~

~~11.5.~~

~~12.3 Each Director shall maintain an electronic or written record of all successful tenderers in a form approved by the CD-SR in accordance with the requirements of the Council's Document Retention Policy.~~

~~11.12.4 If, as a result of the tender evaluation process the Director is satisfied that an arithmetical error has been made inadvertently by the tenderer such an error may, after consultation with the tenderer, be corrected. The Director shall record any such correction in writing.~~

~~12.5 Before a Contract is awarded the Director shall, in consultation with CD-SR complete a risk assessment to ascertain the financial stability of the potential Contractor. The risk assessment shall take into account the subject matter, complexity, duration, value and any other such factors as may be deemed to be relevant. This shall be undertaken in accordance with the Gateway Process (Gateway 3).~~

~~12.6 On completion of the evaluation of the tenders received and once all internal approvals have been obtained the Director shall write to all Participants informing them of the outcome of the tender evaluation and providing feedback on the content of their tender. Where appropriate such feedback shall be given in accordance with the PCRs.~~

~~12.7 For OJEU tenders the Director shall wait for a minimum of 10 days from the date of issue of the letters notifying the tenderers of the result of the evaluation before completing the Contract with the successful tenderer.~~

~~12.8 Where a tender involves payment to the Council, Rules 9.2-8.8 and 11.4-12.2 shall apply except that the word "highest" shall be substituted for "lowest" in those Rules.~~

## ~~12.0 ALTERATIONS TO TENDERS/QUOTATIONS AND POST-TENDER NEGOTIATIONS~~

## ~~12~~13.0 POST TENDER NEGOTIATION AND CLARIFICATION

~~13.1~~ Tenders may not be altered by Tenderers after the tender closing date except:-

- ~~(a)~~ where the Director is satisfied that arithmetical errors having been inadvertently made by the Tenderer, such errors can be corrected; or
- ~~(b)~~ where post tender negotiation is undertaken in accordance with **Rule 12.2**; or
- ~~(c)~~ where post tender clarification is undertaken in accordance with **Rule 12.4**.

~~12.2~~ Post tender negotiations may not be undertaken where the value of the Contract exceeds the ~~threshold under~~limits set out in the ~~Public Contracts Regulations 2006~~ (where an OJEU Notice is required). Where post tender negotiations are permitted, PCR's.

~~13.2~~ Post tender negotiations with selected tenderers ~~must be in accordance with the following conditions:-~~ shall only be carried out where:

~~(a)~~ that 13.2.1 post tender negotiations are permitted by law; and

13.2.2 the Director ~~(, in consultation with the CD-SR)CPG~~, considers that added value may be obtained; and

~~(b)~~ that 13.2.3 the post tender negotiations are permitted by law

~~(c)~~ that ~~post tender negotiations are to be~~ conducted by a team of suitably experienced Officers approved by the Director and who have been trained in post tender negotiations; and

~~(d)~~ that 13.2.4 a comprehensive, written record of the negotiations is kept by the Council; and

~~(e)~~ that 13.2.5 a clear record of the added value to be obtained ~~by~~ as a result of the post tender negotiations is incorporated into the Contract with the successful tenderer.

~~12~~

~~13.3~~ Rules ~~12.1 and 12.2~~ shall also apply to alterations to quotations.

~~12.4~~ ~~Rules 12.1, 12.2~~ and ~~12.3~~13.2 shall not operate to prevent clarification of all or part of any tender ~~or quotation~~ to the extent permitted by law and where such clarifications are sought the provisions of ~~Rules 12~~Rule 13.2 (c), 3 and ~~(d)~~13.2.4 shall apply, except that the word '~~clarification~~"clarification"' shall be substituted for the word ~~"negotiation"~~ in these Rules.

## ~~13~~14.0 PURCHASING CARDS

~~13~~14.1 Where purchasing cards are issued by the Council the following provisions shall apply:-

- (a) their use shall be subject to the procedures laid down by the CD-SR
- (b) cards shall only be issued to, and used by, Officers nominated by a Director (in consultation with the CD-SR)
- (c) for the purpose of **Rule 65.1** the payment invoice will constitute evidence in writing of the Contract.

## **4415.0 CERTIFICATION OF CONTRACTS**

**4415.1** The Local Government (Contracts) Act 1997 clarified the power of local authorities to enter into certain Contracts, including Private Finance Initiative Contracts. Where Contracts need to be certified under the 1997 Act, only the following Officers are authorised to do so: the Corporate Director Children and Young People's Service, the Corporate Director Business and Environmental Services, the Corporate Director Health and Adult Services and the ~~Corporate Director Strategic Resources~~ CD-SR.

## **4516.0 EXCEPTIONS TO CONTRACT PROCEDURE RULES 8, 9 AND 10**

**4516.1** A Director does not need to invite quotations or tenders in the following circumstances:-

- (a) purchases via framework agreements which have been established by other public sector bodies or consortia (including, but not limited to YPO) and where such framework agreements are lawfully accessible to the Council, ~~except~~ where the requirements of the individual framework require a further competition to be conducted or
- (b) purchases at public auctions, or
- (c) the purchase of supplies, works or services which are of such a specialised nature as to be obtainable from one Contractor only, except where the value of the Contract exceeds the relevant ~~threshold of the Public Contracts Regulations 2006~~ EU Threshold; or
- (d) the instruction of Counsel by the ACE(LDS), or
- (e) repairs to or the supply of parts for existing proprietary machinery or plant except where the value of the Contract exceeds the relevant ~~threshold of the Public Contracts Regulations 2006, or~~ EU Threshold, or
- (f) social care Contracts with a value below the EU Threshold where:-
  - (i) the service is currently supplied by a Contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Services, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, or
  - (ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Contractor and where the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Services considers it inappropriate for quotations or tenders to be invited, or
  - (iii) where the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Services is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders in which case consideration shall be given to the duration of that service

(g) social care Contracts which are classifiable as 'Part B Services' under the ~~Public Contracts Regulations 2006~~PCR's where:-

- (i) the service is currently supplied by a Contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's ~~Service~~Services, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, or
  - (ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Contractor and where the Corporate Director Health and Adult Services ~~and/or~~ the Corporate Director Children and Young People's ~~Service~~Services considers it inappropriate for quotations or tenders to be invited, or
  - (iii) where the Corporate Director Health and Adult Services ~~and/or~~ the Corporate Director Children and Young People's ~~Service~~Services is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders in which case consideration shall be given to the duration of that service
- (gh) Contracts where the Director with the agreement of the ACE(LDS) and the CD-SR agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining quotations or tenders cannot be met. A written record shall be signed and dated by the Director, whenever this rule applies.

4616.2 Where any of the exceptions set out in (a) to (h) above are applied a written record of the decision and justification shall be signed and kept as part of the Gateway Process.

### 16.3 **Waivers**

- (a) Specific exceptions to ~~Contract Procedure~~these Rules are permitted in such other circumstances as the CD-SR and the ACE(LDS) may agree.
- (b) Requests for ~~waiver~~waivers shall be made using a form prescribed by the ACE(LDS) and the CD-SR which shall specify the reasons for the request and include a completed risk assessment of the proposal.
- (c) The ACE(LDS) shall maintain a register of all requests made under 15.2(b) and the responses given to them.

### 4617.0 **COMPLIANCE, CONTRACT REGISTER AND FORWARD PROCUREMENT PLANS**

4617.1 Every Officer shall comply with these Rules and any unauthorised failure to do so may lead to disciplinary action.

4617.2 Each Director, CPG and/or the DPC's shall take all such steps as are reasonably necessary to ensure that Officers within their Directorate are aware of and comply with these Rules, the *Procurement Manual* and the *Finance Manual* referred to in **Rule 2.5**.

4617.3 The CD-SR shall be responsible for monitoring adherence to these Rules.

~~16~~**17.4** Each Director shall nominate a representative to act as a key contact point in relation to procurement matters for the Directorate; such representatives shall be termed "**Directorate Procurement Champions**" in this Rule."

~~16~~**17.5** Directorate Procurement Champions are responsible for the production of a Forward Procurement Plan ('FPP') FPP which will be completed in such format as ~~the CD-SRCPG shall require~~ and which will include the following details:

~~(a) contracts for works, supplies and services worth £10,000 or more which the Directorate intends to award in the next financial year~~

~~(b) in respect of each contract to be awarded:~~

~~(i) the service unit and Responsible Officer~~

~~(ii) the subject matter of the contract~~

~~17~~

~~(iii) the date the procurement process is expected to start~~

~~(iv) the date the contract is expected to start~~

~~(v) the duration of the contract~~

~~(vi) the contract's annual value~~

~~(vii) the procurement methodology to be adopted.~~

**16.6** The Directorate Procurement Champions shall each present their Directorate FPP to the Corporate Procurement Members' Working Group annually at such time as the CD SR shall require (which will normally be at the commencement of the new financial year). The an updated FPP shall be presented to their respective directorate management teams quarterly for approval throughout the ~~remainder of the year.~~

~~16.7~~ The Council has established, as part of its Corporate Procurement Strategy, a Contract Register which forms part of the e-tendering system ("**the Register**")**17.7** An annual report on procurement matters, such report to include an annual procurement plan and actions arising from the annual procurement plan, will be presented to a meeting of the Corporate & Partnership Overview & Scrutiny Committee.

**17.8** The Council maintains a Contract Register the purpose of which is to:

(a) record key details of all Contracts with an aggregate value of £10,000 or more; and

(b) identify a Contract reference number.

~~16.7.1~~**17.9** Directorate Procurement Champions shall ensure that:-

(a) all relevant Contracts (including those Contracts to which Rule 16 applies) are entered onto the Contract Register and the appropriate Contract number recorded

(b) the Register is maintained by entering new Contracts onto it and removing expired Contracts from it in line with the Council's Records Retention and Destruction Schedule.

~~16.8~~ Following the award of a contract, the Procurement Champions shall ensure the completed contracts e form is completed and submitted on-line.



## **17.0 REVIEW OF PROCUREMENT PROJECTS AND CONTRACT MONITORING**

- ~~17.1 If the estimated value of a procurement is £50,000 or more, a formal risk analysis must be undertaken. At key stages of progress, procurements assessed as 'Medium' or 'High' risk must be reviewed by the relevant Directorate Management Team and signed off by the Director.~~
- ~~17.2 The Responsible Officer shall take all such steps as are necessary to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Responsible Officer shall maintain adequate records of Contract performance and details of review meetings with the Contractor. Such records and details shall be made available to Internal Audit whenever required.~~

## **18.0 GATEWAY PROCESS REPORTS INCLUDING NOTIFICATION OF SECTION 151 OFFICER AND MONITORING OFFICER**

**18.1** When a procurement is being considered which is expected to exceed the financial value thresholds specified in **Rule 18.2** then the Responsible Officer must complete the necessary Gateway Process report for consideration by the ~~responsible Corporate~~relevant Directorate Management Team or the relevant Director, the Assistant Director with responsibility for finance within that Directorate, and the ~~ACE(LDS) or by a Legal and Democratic Services Officer authorised by her.~~DPC. No procurement should commence before the Gateway Process report is approved. The report shall include the estimated “whole life” financial value of the Contract, the procurement methodology and any other relevant factors including, but without limitations, any TUPE implications. The Assistant Director with responsibility for finance will enter details on a register of procurements approved under this Rule which will be ~~available~~available to the CD-SR and the ACE(LDS).

**18.2** The whole Contract financial value thresholds for the purposes of **Rule 18.4**~~are~~1 are:

- (a) works Contracts - £100,000
- (b) services Contracts – £100,000

**18.3** When a procurement is being considered which is expected to exceed the financial value thresholds specified in Rule 18.4 then the Responsible Officer must ensure the necessary Gateway Process report prepared in accordance with Rule 18.1 is also considered by the ACE(LDS) or by a LDSO authorised by her. No procurement should commence before the Gateway Process report is approved.

**18.4** The whole Contract financial value thresholds for the purposes of Rule 18.3 are:

- (a) works Contracts - £1m
- (b) services Contracts ~~(except in respect of social care and the appointment of Counsel) – £150,000 – EU Threshold~~
- (a) ~~social care contracts – £500,000~~
- (b) ~~supply contracts (except in respect of equipment and other assets including vehicles and hardware) – £1m~~
- (a) ~~equipment and other assets including vehicles and hardware – £100,000.~~

**18.35** No action leading towards procurement, including any steps to undertake a further competition under an existing framework arrangement, shall be undertaken until confirmation of the process has been given under the terms set out in ~~Rule~~Rules **18.1 and 18.3**.

## **19.0 CONTRACT MONITORING**

**19.1** The Responsible Officer shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Responsible Officer shall maintain adequate records of Contract performance and details of review meetings with the Contractor. Such records and details shall be made available to Internal Audit whenever required and shall be recorded in any relevant Gateway Process report (Gateway 4). Such records shall also be used as the basis for any permitted extension to the Contract.

### Contract Variation

19.2 Contracts may be varied in accordance with the terms of that Contract. Any proposed variations which have the effect of materially changing the Contract must be approved by the ACE(LDS), whether or not they are effected by amending the Contract itself or by correspondence.

### 20.0 TRAINING FOR PROCUREMENT

20.1 Any Officer involved in procurement activities ~~should~~shall have received a level of formal training commensurate with the nature of the procurement activity being undertaken.

### 2021.0 DECLARATION OF INTERESTS

2021.1 If it comes to the knowledge of a Member, Responsible Officer or other Officer that a Contract in which he has an interest (determined in accordance with the Members' and/or Officers' Code of Conduct as appropriate) has been or is proposed to be entered into by the Council, he shall immediately give written notice to the ACE(LDS).

# Contract Procedure Rules

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20. Training for Procurement
21. [Declaration of Interests](#)

*These Rules constitute the Council's Standing Orders in relation to contracts under Section 135 of the Local Government Act 1972 and apply to all contracts (excluding property contracts), including those made in the course of the discharge of functions which are the responsibility of the Executive.*

## **1.0 INTRODUCTION**

1.1 These terms will have the following meanings in the Contract Procedure Rules:-

<b>ACE(LDS)</b>	means the Assistant Chief Executive (Legal and Democratic Services)
<b>Constitution</b>	means the Council's Constitution of which these Rules form part.
<b>Contract</b>	means any agreement made between the Council and any other person which is intended to be legally enforceable and involves the acceptance of an offer made by one party to commit itself to an action or series of actions and subject to the exceptions in <b>Rule 2.2</b>
<b>Contract Register</b>	means the register of Contracts maintained by the Council as set out in Rule 17.8
<b>Contractor</b>	means a person or entity with whom the Council has a Contract
<b>CD-SR</b>	means the Corporate Director Strategic Resources
<b>CPG</b>	means the Corporate Procurement Group
<b>Council</b>	means North Yorkshire County Council
<b>Director</b>	means the Chief Executive Officer; Corporate Director Business and Environmental Services; Corporate Director Health and Adult Services; Corporate Director Children and Young People's Service; Corporate Director Strategic Resources as the context requires
<b>DPC</b>	means a Directorate Procurement Champion
<b>EU</b>	means the European Union
<b>EU Threshold</b>	means the current threshold above which the PCR's apply, currently £173,934 for services and supplies and £4,348,350 for works
<b>E-sourcing system</b>	means the Council's chosen E-sourcing system (currently YorTender) or an approved alternative
<b>FPP</b>	means the Forward Procurement Plan maintained as described in Rule 17.5
<b>Framework Agreement</b>	means an agreement with one or more public sector bodies which establishes an arrangement for: (i) multiple orders to be placed with one Contractor (a single supplier framework), or (ii) a framework of multiple Contractors to engage in further competitions (a multiple supplier framework)
<b>Gateway Process</b>	means the Council's risk based gateway procurement process that combines assessment and understanding of

various aspects of risk with appropriate review and scrutiny at defined points in the procurement cycle.

<b>ITT</b>	means an Invitation to Tender
<b>Leasing Agreement</b>	means a Contract for the provision of finance to enable goods or services to be obtained and where ownership in those goods does not automatically pass to the Council at the end of the Contract period.
<b>LDSO</b>	means a Legal & Democratic Services Officer
<b>MEAT</b>	means the Most Economically Advantageous Tender
<b>Member</b>	means a member of the Council or co-opted member on a Council committee
<b>Officer</b>	means a Council employee or other authorised agent
<b>OJEU</b>	means the Official Journal of the European Union
<b>Participant</b>	means a person or entity participating in a procurement process
<b>Person</b>	means any individual, partnership, company, trust, other local authority, Government department or agency
<b>PQQ</b>	means the Pre-Qualification Questionnaire
<b>Procurement Manual</b>	means the manual to accompany these Rules which provides detailed guidance on procurement techniques and the effect of the Rules
<b>Procurement Strategy</b>	means the Council's Procurement Strategy as agreed from time to time.
<b>Property Contract</b>	means a Contract which creates an estate or interest in land or buildings
<b>PCR</b>	means the Public Contracts Regulations 2006 (as amended)
<b>Responsible Officer</b>	means the Officer who is responsible for the procurement and/or management of a Contract
<b>Rules</b>	means these Rules
<b>Tenderer</b>	means a person who has expressed an interest in tendering for a Contract or who has tendered for a Contract
<b>Internal Audit</b>	means the Council's appointed internal auditors (currently Veritau)
<b>YPO</b>	means the Yorkshire Purchasing Organisation

## 1.2 References in these Rules to:-

- (a) any legislation (e.g. Act, Statutory Instrument, EU Directive) include a reference to any amendment or re-enactment of such legislation;

- (b) the value of any Contract are to the total estimated aggregate gross value payable over the full period of the Contract including any options or extensions to the Contract without any deduction for income due to the Contractor or the Council;
- (c) the singular include the plural and vice versa;
- (d) the masculine include the feminine and vice versa;
- (e) Directors, the CD-SR and the ACE(LDS) shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-
  - (i) Director - **Rules 8.8, 8.9, 12.2, 16.1(h), 16.3 and 18.1**
  - (ii) CD-SR - **Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(h), 16.3, 17.3 and 18.1**
  - (iii) ACE(LDS) - **Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(h) and 16.3**

where delegation is not permitted. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the CD-SR and the ACE(LDS)

## **2.0 GENERAL**

- 2.1** These Rules are made by the Council on the advice of the CD-SR (in consultation with the ACE(LDS)) under Article 14.02 of the Constitution.
- 2.2** These Rules apply to all Contracts for works, goods, supplies and services but do not apply to:-
  - (a) Contracts of employment;
  - (b) Property Contracts (which are covered by the Property Procedure Rules); and
  - (c) financial instruments (including, but without limitation, shares, bonds, bills of exchange, future or options Contracts) (which are covered by the Financial Procedure Rules).
- 2.3** The Council has made Financial Procedure Rules under Article 14.01 of the Constitution which shall be applied in conjunction with these Rules.
- 2.4** The CD-SR (in consultation with the ACE(LDS)) shall review the application and effect of these Rules and make an annual report or as required but no less than once per year to the Audit Committee recommending such amendments to the Rules as are considered appropriate.
- 2.5** The CD-SR and the ACE(LDS) have produced a Procurement Manual which provides detailed guidance on procurement techniques and the effect of the Rules. The Procurement Manual also sets out important issues to be considered in the procurement context. These Rules should be read in conjunction with the Procurement Manual.
- 2.5.1** The CD-SR has also produced a *Finance Manual* which gives advice on financial procedures.

- 2.6 Where a Contract for the acquisition or hire of goods or services involves any form of leasing agreement to finance the transaction then the CD-SR shall undertake the negotiation of terms and authorise the arrangement in accordance with Rule 9.3 of the Financial Procedure Rules.
- 2.7 Directors shall ensure that all documentation relating to Contracts and procurement processes (including quotations) is retained in accordance with the Council's Records Retention and Destruction Schedule.
- 2.8 Where the Council has awarded a Contract to any person to supervise or otherwise manage a Contract on its behalf such a person shall be required to comply with these Rules as if he were an Officer of the Council.
- 2.9 Wherever possible and appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to PQQ's, invitations to tender or to submit quotations. Wherever alternative documents are to be used they must be approved by ACE(LDS) in consultation with CPG (or Corporate Procurement Lead) as appropriate.

### **3.0 COMPLIANCE WITH LEGISLATION AND STANDARDS**

- 3.1 Every Contract shall comply with all relevant applicable legislation and government guidance including:-
- (a) EU Law
  - (b) Acts of Parliament
  - (c) Statutory Instruments including, but without limitation, the Public Contracts Regulations 2006.
- 3.2 Where relevant, every Contract shall specify that materials used, goods provided, services supplied or works undertaken (as the case may be) shall comply with applicable standards. Such standards are, in order of priority:-
- (a) EU Standards
  - (b) British Standards implementing international standards
  - (c) British Standards

### **4.0 POWERS AND KEY DECISIONS**

- 4.1 In consultation with the ACE(LDS) Directors shall ensure that the Council has the legal power to enter into any Contract and that in respect of all Contracts, regardless of whether they involve the procurement or provision by the Council of works, supplies or services Directors shall ensure that no Contract shall be entered into which is ultra vires.
- 4.2 Directors shall ensure that a written record of the decision to procure a Contract is made and, where such a decision comprises a Key Decision under the Constitution, Directors shall ensure that it is entered on to the Forward Plan and treated as a Key Decision in all respects.

### **5.0 FORM OF CONTRACT**



- 5.1** Every Contract exceeding £100 in value shall be evidenced in writing (by the use of an order form, exchange of correspondence or other written medium).
- 5.2** Every Contract exceeding £20,000 in value shall be documented by a written form of agreement. Wherever appropriate and possible, such written agreements shall be made on the basis of terms and conditions agreed by the ACE(LDS). Such terms and conditions may be incorporated into standard order conditions. The Council may accept different terms and conditions proposed by a Contractor provided that the advice of the ACE(LDS) as to their effect has been sought and considered.
- 5.3** The written form of agreement for all Contracts exceeding £20,000 in value must clearly specify the obligations of the Council and the Contractor and shall include:-
- (a) the work to be done or the goods or services to be supplied
  - (b) the standards which will apply to what is provided
  - (c) the price or other consideration payable
  - (d) the time in which the Contract is to be carried out
  - (e) the remedies which will apply to any breach of Contract
- 5.4** Where considered appropriate by the CD-SR, term contracts and framework contracts may include a financial limit above which value, work to be done or goods or services to be supplied shall be subject to a separate procurement exercise in accordance with these Rules.
- 5.5** The written form of agreement for all Contracts exceeding £20,000 in value must include the following or equivalent wording:-
- (a) "If the Contractor:-
    - (i) Has offered any gift or consideration of any kind as an inducement or disincentive for doing anything in respect of this Contract or any other Contract with the Council, or
    - (ii) Has committed any offence under the Prevention of Corruption Acts 1889 to 1916 or the Bribery Act 2010, or
    - (iii) Has committed an offence under Section 117 (2) of the Local Government Act 1972the Council may terminate the Contract immediately and will be entitled to recover all losses resulting from such termination".
  - (b) "If the Contractor is in persistent and/or material breach of Contract the Council may terminate the Contract and purchase the supplies, works or services from a third party and the Council may recover the cost of doing so from the Contractor"
- 5.6** The standard clauses contained in the Procurement Manual relating to the Freedom of Information Act 2000 and the Data Protection Act 1998 shall, wherever possible, be included in all Contracts exceeding £20,000 in value.
- 5.7** Other standard clauses are contained in the Procurement Manual relating to, for example, equalities, the Public Services (Social Value) Act 2012, sustainability and best value; these are not mandatory for each such written agreement referred to in **Rule 5.5** above, but should be included where appropriate.

## **6.0 SIGNATURE/SEALING OF CONTRACTS**

**6.1** Every written Contract must be either signed or sealed in accordance with this Rule. Where Contracts have a value exceeding £50,000 they must be either sealed, or signed by two Officers as described below.

**Comment [CM1]:** Recommendation is £100k but on understanding that formal schemes of delegation are sorted out.

**6.2** The ACE(LDS) and such of her staff as she may designate are authorised to sign any Contract.

**6.2.1** The ACE(LDS) also authorises such Contracts to be signed by Directors (or by an Officer authorised by a Director to sign on the Director's behalf) up to and including £500,000 provided that:-

- (a) appropriate authority exists for the Council to enter into the Contract, and
- (b) the Contract is either:-
  - (i) in a nationally recognised form, or
  - (ii) a standard form prepared or approved by the ACE(LDS), or
  - (iii) is otherwise in a form approved by the ACE(LDS); and
- (c) any variations to approved forms of Contract must themselves be approved by the ACE(LDS), whether or not they are effected by amending the Contract itself or by correspondence

**6.2.2** Contracts that exceed £500,000 shall be signed by:

- (a) the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by her); and
- (b) an authorised signatory in the relevant Directorate (or another Legal and Democratic Services' Officer authorised by the ACE(LDS)).

**6.2.3** Only the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by the ACE(LDS)) may seal a Contract on behalf of the Council, in each case being satisfied that there is appropriate authority to do so.

## **7.0 BONDS AND LIQUIDATED DAMAGES**

**7.1** Directors (in consultation with the CD-SR) shall consider whether to include provision for the payment of liquidated damages by a Contractor for breach of Contract in all Contracts which exceed £100,000 in value. Such consideration shall be recorded in the Gateway Process (Gateway 2).

**7.2** Where considered appropriate by a Director (in consultation with the CD-SR), the Contractor will be required to provide a performance bond to secure the performance of the Contract. Such performance bonds should provide for a sum of not less than 10% of the total value of the Contract or such other sum as the CD-SR considers appropriate.

**7.3** Agreements made under Section 38 (adoption of new highways) or Section 278 (development of existing highways) of the Highways Act 1980 shall always include provision for a bond in respect of such sum as the Corporate Director Business and Environmental Services shall consider appropriate except where:-

- (a) the identity of the developer renders the need for a bond unnecessary, or

- (b) adequate alternative security is provided, or
- (c) the Corporate Director Business and Environmental Services (in consultation with the CD-SR) agrees that it is inappropriate for a bond to be required.

## **8.0 QUOTATIONS**

- 8.1** Where the estimated value of a Contract is £5,000 or less the invitation of quotations is not mandatory, but written quotations should be invited where appropriate and best value should always be sought.
- 8.2.1** If the estimated value of a Contract exceeds £5,000 but is less than £20,000 at least three written quotations must be invited from suitable potential Contractors. The estimated value of the Contract shall be recorded in writing prior to quotations being sought.
- 8.2.2** If the estimated value of a Contract exceeds £20,000, but is less than £100,000 at least three written quotations must be invited from suitable potential Contractors. The estimated value of the Contract shall be recorded in writing prior to quotations being sought and quotations must be invited using the E-sourcing system.
- 8.3** All potential Contractors invited to submit quotations shall be provided in all instances with identical information and instructions. Where considered appropriate, Directors may permit potential Contractors who have been selected to submit quotations under **Rule 8.2** to also submit variant quotations (ie quotations which do not comply with some or all of the requirements of the primary quotation). The same opportunity to submit variant quotations must be given to all potential Contractors.
- 8.4** A written quotation may only be considered if:-
  - (a) it has been received electronically through the E-sourcing system, or
  - (b) it has been received in a sealed envelope marked "Quotation" and indicating the subject matter of the quotation and
  - (c) It has been opened after the expiry of the deadline for submissions and at the same time as other quotations for the same subject matter in the presence of at least two Officers authorised to open quotations.
- 8.5** Before quotations of a value in excess of £20,000 are requested it must be recorded in writing whether the lowest price or the most economically advantageous quotation should be accepted. Where both price and quality are to be factors (ie where the most economically advantageous quotation applies) the quality criteria must be identified and the weighting between price and quality established and recorded before quotations are requested. The criteria should be stated in the request for quotation sent to suppliers.
- 8.7** Price/quality quotation evaluation models must be lodged with Internal Audit before any quotations are opened.
- 8.8** If a quotation other than the lowest or the most economically advantageous quotation (as the case may be) is to be accepted, the written approval of the Director (in consultation with the CD-SR or if the relevant Director is the CD-SR, in consultation with the Chief Executive) shall be sought and obtained before the quotation is accepted.

- 8.9** A quotation for a price in excess of £100,000 may be accepted if (and only if):-
- (a) the original documented estimated price was less than £100,000 **and**
  - (b) the price quoted does not exceed that original documented estimated price by more than 10% **and**
  - (c) the written approval of the Director (in consultation with the CD-SR) has been obtained.

If the conditions at (a), (b) and (c) are not met, Directors must seek tenders in accordance with **Rule 9**.

- 8.10** Where a quotation involves payment to the Council, the provisions of **Rules 8.6 and 8.8** shall apply except that the word "lowest" shall be replaced by the word "highest" in these paragraphs.

- 8.11** Quotations may be altered only in accordance with Rules 13.1 and 13.2

#### **Financial Stability**

- 8.11** Before a Contract is awarded after a quotation exercise such steps shall be taken, in conjunction with the CD-SR, as are reasonably necessary (having regard to the subject matter, value, duration of the Contract and other relevant factors) to complete a risk assessment of the potential Contractor's financial stability.

#### **9.0 TENDERS**

- 9.1 If the estimated value of the Contract is £100,000 or more tenders shall be invited in accordance with the provisions of this Rule.
- 9.2 If the estimated value of the Contract exceeds the limits set out in the Public Contracts Regulations 2006 the additional requirements for OJEU Procurements, set out in Rule 10.3, shall be followed.

#### **General Requirements**

- 9.3 Before Directors invite tenders it shall be recorded in writing for all Contracts whether the Contract will be awarded on the basis of price or the Most Economically Advantageous Tender (MEAT), a combination of price and quality.
- 9.4 If a Contract is to be awarded on the basis of the MEAT, the criteria to be used in the assessment of the quality elements of the tenders and the weighting between price and quality shall be established and recorded in writing before tenders are invited. For all Contracts, the tender assessment criteria, sub-criteria and weightings shall be stated in the Invitation to Tender.
- 9.5 If a Contract is to be awarded on a price only basis it shall be recorded whether the award will be made on the basis of the lowest Price or any other tendered Price.
- 9.6 All Participants invited to submit tenders shall be provided with identical instructions and information.
- 9.7 Where considered appropriate, a Director may, in consultation with the DPC, permit Participants to submit variant tenders (ie tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant tenders shall be given to all Participants. Variant tenders shall only be considered if the Participant also submits a compliant primary tender.

9.8 Evaluation models for PQQ's and ITT's shall be lodged with Internal Audit before any submission documents are opened. The Evaluation Model shall not be divulged to potential Contractors.

9.9 Directors shall invite tenders on the basis of one of the options identified in Rule 10.

## **10.0 OPTIONS FOR TENDER**

Tenders shall be invited on the basis of one of the following options:

### **10.1 Open Tenders**

10.1.1 If a Director, in consultation with the DPC, considers it to be appropriate that any ITT shall be available to all potential Participants then the following procedures shall apply:

- (i) A notice advertising the opportunity shall be published through the E-sourcing system and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the value, location and subject matter of the Contract. The notice shall specify brief details of the Contract, how the Invitation to Tender documents may be obtained and the closing date for receipt of tenders by the Council.
- (ii) The deadline date for the return of tenders shall be at least 28 days after the publication of the first advertisement of the ITT and, where relevant, at least 14 days after the last ITT advertisement is published.
- (iii) The criteria which are to be applied in the evaluation of the tenders shall be recorded in writing before ITT's are issued and shall be included in the documents provided to all Participants.
- (iv) The evaluation of the tenders shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.
- (v) The evaluation model shall be lodged with Internal Audit before any submission documents are opened. The evaluation model shall not be divulged to Participants.

### **10.2 Restricted Tenders**

10.2.1 If a Director, in consultation with the DPC, considers it to be appropriate that any ITT shall be restricted to selected Participants by issuing a PQQ to all potential Participants followed by an ITT to those Participants selected at the PQQ stage then the following procedures shall apply:

- (i) A notice advertising the opportunity and inviting expressions of interest shall be published through the E-sourcing system and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the value, location and subject matter of the Contract. The notice shall specify brief details of the Contract and invite potential Contractors to complete and submit a PQQ to the Council in order to be considered to be invited to tender. The notice shall include details as to how PQQ's are to be submitted and the closing date for their receipt by the Council.

- (ii) The deadline date for the return of PQQ's shall be at least 28 days after the publication of the first advertisement of the opportunity and, where relevant, at least 14 days after the last advertisement is published.
- (iii) The selection criteria which are to be applied in the evaluation of the PQQ's shall be recorded in writing before PQQ's are invited and shall be included in the documents provided to all Participants.
- (iv) The evaluation of the PQQ's shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.
- (v) After evaluation of the PQQ's, ITT's shall be published to at least five Participants or, if less than five potential Participants applied or are considered suitable, such Participants as have been selected by the Director.
- (vi) The deadline date for the receipt of tenders shall be at least 40 days after the date of dispatch of the ITT's.
- (vii) The criteria which are to be applied in the evaluation of the tenders shall be recorded in writing before ITT's are published and shall be included in the documents provided to all Participants.
- (viii) The evaluation of the tenders shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.
- (ix) The evaluation model shall be lodged with Internal Audit before any submission documents are opened. The evaluation model shall not be divulged to potential Contractors.

### 10.3 OJEU Tenders

Tenders for Contracts which exceed the EU Threshold shall be invited and awarded as prescribed in Rule 10.1 or Rule 10.2 but taking into account the following amendments:

- 10.3.1 **Open Tenders:** the deadline date for the return of tenders shall be a minimum of 52 days after the publication of the first advertisement of the ITT. The actual deadline date shall be determined having taken into consideration the complexity of the Contract and the time required for the completion of the tender documents by potential Contractors.
- 10.3.2 **Restricted Tenders:** the deadline date for the return of PQQ's shall be at least 37 days after the publication of the first advertisement of the opportunity. The deadline date for the receipt of tenders shall be at least 40 days after the date of publication of the ITT.
- 10.3.3 The minimum deadline dates for **Open and Restricted tenders** may be reduced to a period generally not less than 36 days and in any event not less than 22 days if a Prior Information Notice (PIN) has been published in accordance with the Public Contract Regulations 2006.

### 10.4 Framework Agreements

- 10.4.1 If a Director considers it appropriate to establish a Framework Agreement then the Framework Agreement shall be established using the procedures set out in either Rule 10.1 or 10.2

10.4.2 The procedure prescribed by the Public Contract Regulations 2006 shall apply to all aspects of the procurement and to the subsequent operation of the Framework Agreement including, but not limited to:

- (i) the procurement methodology
- (ii) the placement of orders under the Framework Agreement
- (iii) further competition between Contractors appointed to the Framework Agreement

10.4.3 The duration of the Framework Agreement shall be limited, as prescribed by the Public Contract Regulations 2006, to a maximum of four years including any extension periods.

## **10.5 Approved Lists**

10.5.1 If a Director considers it appropriate to maintain a list of suitable Contractors for particular types of work and/or goods and/or services, where the estimated value of the work and/or goods and/or services is below the limits set out in the Public Contract Regulations 2006, the list of suitable Contractors shall be established using the procedures set out below:

10.5.2 A notice inviting expressions of interest shall be published through the E-sourcing system and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the value, location and subject matter of the Contract. The notice shall specify brief details of the Contract and invite potential Contractors to apply to the Council to be considered for inclusion on the approved list by the Council. The notice shall include details as to how expressions of interest are to be submitted and the closing date for their receipt by the Council

10.5.3 The deadline date for the return of expressions of interest shall be at least 28 days after the publication of the first advertisement of the expressions of interest and, where relevant, at least 14 days after the last advertisement is published.

10.5.4 The selection criteria which are to be applied in the evaluation of the expressions of interest shall be recorded in writing before expressions of interest are invited and shall be included in the documents provided to all potential Contractors.

10.5.5 The evaluation of the expressions of interest shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract. The Director shall then maintain a list of approved Contractors categorised by works type and value as may be applicable.

10.5.6 The Director shall review the performance of all Contractors on the approved list at regular intervals, not exceeding 12 months from the date of appointment of the Contractor to the approved list.

10.5.7 The Director may remove Contractors from an approved list where the Director and CD-SR agree that such removal is appropriate having regards for the conduct, performance and/or status of the Contractor in relation to those standards identified in the original expressions of interest.

10.5.8 The Director may, after consultation with CD-SR approve an application from a potential Contractor to be added to an existing Approved List.

10.5.9 Invitations to Tender or Invitations to Quote shall be invited in accordance with Rule 10 or Rule 8.

10.5.10 The Director shall maintain records of the tenders or quotations invited from an approved list such that the names of the Contractors invited to tender, the selection process and Contracts awarded to each Contractor are available for inspection.

10.5.11 Approved lists may remain in force for a maximum of 5 years. Before the expiration of the approved list a replacement shall be established, if appropriate, in accordance with Rule 10.5.

## **10.6 Negotiated Procedure and Competitive Dialogue**

10.6.1 Where a Director in consultation with CD-SR agree that it is appropriate, the negotiated procedure or the competitive dialogue procedure may be used for the invitation of tenders in accordance with the requirements of the PCR's.

## **11.0 RECEIPT AND OPENING OF TENDERS**

11.1 A written tender may only be considered if:-

- (a) it has been received electronically through the e-tendering system, or
- (b) (where permitted) it has been received in hard copy in a sealed envelope marked "Tender" and indicating the subject matter of the tender, and the identity of the tenderer cannot be ascertained from the tender envelope,

and, subject to **Rule 11.4**, it has been returned in accordance with the instructions contained in the ITT before the tender closing date.

11.2 The ACE(LDS) (or a person designated by her) shall be responsible for the reception and safe custody of tenders until they are opened.

11.3 Tenders, whether electronic or hard copy must be opened at the same time and in the presence of the ACE(LDS) (or a person designated by her) or, where Legal and Democratic Services is undertaking the procurement, the CD-SR (or an Officer designated by him). Whoever opens the Tenders shall maintain a record of the tenders received. Such a record shall include the date and time of tender opening, the identity of the officer(s) present, the identities of tenderers and the tendered sums (where readily ascertainable). A copy of such a record shall be provided as soon as practicable to the Director inviting the tenders and to Internal Audit.

11.4 If a Tender is received after the specified tender closing date it may not be considered unless the ACE(LDS) is satisfied that the Tender was submitted electronically or posted or otherwise dispatched in sufficient time to be delivered before the specified time but that delivery was prevented by an event beyond the control of the tenderer and that other Tenders have not been opened.

## **12.0 TENDER EVALUATION AND ACCEPTANCE**

12.1 The Director shall evaluate tenders using the evaluation model lodged with Internal Audit in accordance with Rules 9.7, 10.1.1(v) and 10.21(ix).

12.2 If a tender other than the MEAT or the lowest Price is to be accepted the written approval of the Director, after consultation with CD-SR shall be obtained and a signed and dated record of the reasons for the action taken shall be made however,



no such approval can be given where the contract is subject to the PCR's other than in exceptional circumstances agreed by the ACE(LDS).

- 12.3 Each Director shall maintain an electronic or written record of all successful tenderers in a form approved by the CD-SR in accordance with the requirements of the Council's Document Retention Policy.
- 12.4 If, as a result of the tender evaluation process the Director is satisfied that an arithmetical error has been made inadvertently by the tenderer such an error may, after consultation with the tenderer, be corrected. The Director shall record any such correction in writing.
- 12.5 Before a Contract is awarded the Director shall, in consultation with CD-SR complete a risk assessment to ascertain the financial stability of the potential Contractor. The risk assessment shall take into account the subject matter, complexity, duration, value and any other such factors as may be deemed to be relevant. This shall be undertaken in accordance with the Gateway Process (Gateway 3).
- 12.6 On completion of the evaluation of the tenders received and once all internal approvals have been obtained the Director shall write to all Participants informing them of the outcome of the tender evaluation and providing feedback on the content of their tender. Where appropriate such feedback shall be given in accordance with the PCRs.
- 12.7 For OJEU tenders the Director shall wait for a minimum of 10 days from the date of issue of the letters notifying the tenderers of the result of the evaluation before completing the Contract with the successful tenderer.
- 12.8 Where a tender involves payment to the Council Rules 8.8 and 12.2 shall apply except that the word "highest" shall be substituted for "lowest" in those Rules.

### **13.0 POST TENDER NEGOTIATION AND CLARIFICATION**

- 13.1 Post tender negotiations may not be undertaken where the value of the Contract exceeds the limits set out in the PCR's.
- 13.2 Post tender negotiations with selected tenderers shall only be carried out where:
  - 13.2.1 post tender negotiations are permitted by law; and
  - 13.2.2 the Director, in consultation with CPG, considers that added value may be obtained; and
  - 13.2.3 the post tender negotiations are to be conducted by a team of suitably experienced Officers approved by the Director and who have been trained in post tender negotiations; and
  - 13.2.4 a comprehensive, written record of the negotiations is kept by the Council; and
  - 13.2.5 a clear record of the added value to be obtained as a result of the post tender negotiations is incorporated into the Contract with the successful tenderer.
- 13.3 Rules 13.1 and 13.2 shall not operate to prevent clarification of all or part of any tender to the extent permitted by law and where such clarifications are sought the

provisions of Rule 13.2.3 and 13.2.4 shall apply, except that the word “clarification” shall be substituted for the word “negotiation” in these Rules.

#### **14.0 PURCHASING CARDS**

**14.1** Where purchasing cards are issued by the Council the following provisions shall apply:-

- (a) their use shall be subject to the procedures laid down by the CD-SR
- (b) cards shall only be issued to, and used by, Officers nominated by a Director (in consultation with the CD-SR)
- (c) for the purpose of **Rule 5.1** the payment invoice will constitute evidence in writing of the Contract.

#### **15.0 CERTIFICATION OF CONTRACTS**

**15.1** The Local Government (Contracts) Act 1997 clarified the power of local authorities to enter into certain Contracts, including Private Finance Initiative Contracts. Where Contracts need to be certified under the 1997 Act, only the following Officers are authorised to do so: the Corporate Director Children and Young People’s Service, the Corporate Director Business and Environmental Services, the Corporate Director Health and Adult Services and the CD-SR.

#### **16.0 EXCEPTIONS TO CONTRACT PROCEDURE RULES 8, 9 AND 10**

**16.1** A Director does not need to invite quotations or tenders in the following circumstances:-

- (a) purchases via framework agreements which have been established by other public sector bodies or consortia (including, but not limited to YPO) and where such framework agreements are lawfully accessible to the Council, except where the requirements of the individual framework require a further competition to be conducted or
- (b) purchases at public auctions, or
- (c) the purchase of supplies, works or services which are of such a specialised nature as to be obtainable from one Contractor only, except where the value of the Contract exceeds the relevant EU Threshold; or
- (d) the instruction of Counsel by the ACE(LDS), or
- (e) repairs to or the supply of parts for existing proprietary machinery or plant except where the value of the Contract exceeds the relevant EU Threshold, or
- (f) social care Contracts with a value below the EU Threshold where:-
  - (i) the service is currently supplied by a Contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People’s Services, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, or
  - (ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Contractor and where

the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Services considers it inappropriate for quotations or tenders to be invited, or

- (iii) where the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Services is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders in which case consideration shall be given to the duration of that service
- (g) social care Contracts which are classifiable as 'Part B Services' under the PCR's where:-
- (i) the service is currently supplied by a Contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Services, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, or
  - (ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Contractor and where the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Services considers it inappropriate for quotations or tenders to be invited, or
  - (iii) where the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Services is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders in which case consideration shall be given to the duration of that service
- (h) Contracts where the Director with the agreement of the ACE(LDS) and the CD-SR agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining quotations or tenders cannot be met. A written record shall be signed and dated by the Director, whenever this rule applies.

**16.2** Where any of the exceptions set out in (a) to (h) above are applied a written record of the decision and justification shall be signed and kept as part of the Gateway Process.

### **16.3 Waivers**

- (a) Specific exceptions to these Rules are permitted in such other circumstances as the CD-SR and the ACE(LDS) may agree.
- (b) Requests for waivers shall be made using a form prescribed by the ACE(LDS) and the CD-SR which shall specify the reasons for the request and include a completed risk assessment of the proposal.
- (c) The ACE(LDS) shall maintain a register of all requests made under 15.2(b) and the responses given to them.

## **17.0 COMPLIANCE, CONTRACT REGISTER AND FORWARD PROCUREMENT PLANS**

- 17.1 Every Officer shall comply with these Rules and any unauthorised failure to do so may lead to disciplinary action.
- 17.2 Each Director, CPG and/or the DPC's shall take all such steps as are reasonably necessary to ensure that Officers within their Directorate are aware of and comply with these Rules, the *Procurement Manual* and the *Finance Manual* referred to in **Rule 2.5**.
- 17.3 The CD-SR shall be responsible for monitoring adherence to these Rules.
- 17.4 Each Director shall nominate a representative to act as a key contact point in relation to procurement matters for the Directorate; such representatives shall be termed "**Directorate Procurement Champions**".
- 17.5 Directorate Procurement Champions are responsible for the production of a FPP which will be completed in such format as CPG shall require.
- 17.6 The Directorate Procurement Champions shall each present an updated FPP to their respective directorate management teams quarterly for approval throughout the year.
- 17.7 An annual report on procurement matters, such report to include an annual procurement plan and actions arising from the annual procurement plan, will be presented to a meeting of the Corporate & Partnership Overview & Scrutiny Committee.
- 17.8 The Council maintains a Contract Register the purpose of which is to:
- (a) record key details of all Contracts with an aggregate value of £10,000 or more; and
  - (b) identify a Contract reference number.
- 17.9 Directorate Procurement Champions shall ensure that:-
- (a) all relevant Contracts (including those Contracts to which Rule 16 applies) are entered onto the Contract Register and the appropriate Contract number recorded
  - (b) the Register is maintained by entering new Contracts onto it and removing expired Contracts from it in line with the Council's Records Retention and Destruction Schedule.
- 18.0 GATEWAY PROCESS REPORTS INCLUDING NOTIFICATION OF SECTION 151 OFFICER AND MONITORING OFFICER**
- 18.1 When a procurement is being considered which is expected to exceed the financial value thresholds specified in **Rule 18.2** then the Responsible Officer must complete the necessary Gateway Process report for consideration by the relevant Directorate Management Team or the relevant Director, the Assistant Director with responsibility for finance within that Directorate and the DPC. No procurement should commence before the Gateway Process report is approved. The report shall include the estimated "whole life" financial value of the Contract, the procurement methodology and any other relevant factors including, but without limitations, any TUPE implications. The Assistant Director with responsibility for finance will enter details on a register of procurements approved under this Rule which will be available to the CD-SR and the ACE(LDS).

**18.2** The whole Contract financial value thresholds for the purposes of **Rule 18.1** are:

- (a) works Contracts - £100,000
- (b) services Contracts – £100,000

**18.3** When a procurement is being considered which is expected to exceed the financial value thresholds specified in **Rule 18.4** then the Responsible Officer must ensure the necessary Gateway Process report prepared in accordance with Rule 18.1 is also considered by the ACE(LDS) or by a LDSO authorised by her. No procurement should commence before the Gateway Process report is approved.

**18.4** The whole Contract financial value thresholds for the purposes of **Rule 18.3** are:

- (a) works Contracts - £1m
- (b) services Contracts – EU Threshold

**18.5** No action leading towards procurement, including any steps to undertake a further competition under an existing framework arrangement, shall be undertaken until confirmation of the process has been given under the terms set out in **Rules 18.1 and 18.3**.

## **19.0 CONTRACT MONITORING**

**19.1** The Responsible Officer shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Responsible Officer shall maintain adequate records of Contract performance and details of review meetings with the Contractor. Such records and details shall be made available to Internal Audit whenever required and shall be recorded in any relevant Gateway Process report (Gateway 4). Such records shall also be used as the basis for any permitted extension to the Contract.

### **Contract Variation**

**19.2** Contracts may be varied in accordance with the terms of that Contract. Any proposed variations which have the effect of materially changing the Contract must be approved by the ACE(LDS), whether or not they are effected by amending the Contract itself or by correspondence.

## **20.0 TRAINING FOR PROCUREMENT**

**20.1** Any Officer involved in procurement activities shall have received a level of formal training commensurate with the nature of the procurement activity being undertaken.

## **21.0 DECLARATION OF INTERESTS**

**21.1** If it comes to the knowledge of a Member, Responsible Officer or other Officer that a Contract in which he has an interest (determined in accordance with the Members' and/or Officers' Code of Conduct as appropriate) has been or is proposed to be entered into by the Council, he shall immediately give written notice to the ACE(LDS).

**CONTRACT PROCEDURE RULES****SUGGESTED AMENDMENTS**

<b>Rule</b>	<b>Current Wording</b>	<b>Proposed Amendment</b>	<b>Reason</b>
1.1	<b>ACE(LDS)</b> Assistant Chief Executive (Legal and Democratic Services)	<b>ACE(LDS)</b> <u>means</u> Assistant Chief Executive (Legal and Democratic Services)	To provide clarity
1.1	<b>Constitution</b> the Council's Constitution of which these Rules form part	<b>Constitution</b> <u>means</u> the Council's Constitution of which these Rules form part	To provide clarity
1.1	<b>Contract</b> any agreement made between the Council and any other person which is intended to be legally enforceable and involves the acceptance of an offer made by one party to commit itself to an action or series of actions and subject to the exceptions in <b>Rule 2.2</b>	<b>Contract</b> <u>means</u> any agreement made between the Council and any other person which is intended to be legally enforceable and involves the acceptance of an offer made by one party to commit itself to an action or series of actions and subject to the exceptions in <b>Rule 2.2</b>	To provide clarity
1.1		<b><u>Contract Register</u></b> <u>means the register of Contracts maintained by the Council as set out in <b>Rule 17.8</b></u>	Insertion of definition that was previously included within the Rule
1.1	<b>Contractor</b> a person with whom the Council has a contract	<b>Contractor</b> <u>means</u> a person <u>or entity</u> with whom the Council has a contract	To provide clarity
1.1		<b><u>CD-SR</u></b> <u>means the Corporate Director - Strategic Resources</u>	Moved to right place in Definitions.
1.1		<b><u>CPG</u></b> <u>means the Corporate Procurement Group</u>	New definition to provide clarity

Rule	Current Wording	Proposed Amendment	Reason
1.1	<b>Council</b> North Yorkshire County Council	<b>Council</b> <u>means</u> North Yorkshire County Council	To provide clarity
1.1	<b>Director</b> Chief Executive Officer; Corporate Director Business and Environmental Services; Corporate Director Health and Adult Services; Corporate Director Children and Young People's Service; Corporate Director - Strategic Resources as the context requires	<b>Director</b> <u>means the</u> Chief Executive Officer; Corporate Director Business and Environmental Services; Corporate Director Health and Adult Services; Corporate Director Children and Young People's Service; Corporate Director - Strategic Resources as the context requires	To provide clarity
1.1		<b>DPC</b> <u>means a Directorate Procurement Champion</u>	Insertion of definition that was previously included within the Rule
1.1	<b>EU</b> European Union	<b>EU</b> <u>means the</u> European Union	To provide clarity
1.1		<b>EU Threshold</b> <u>means the current threshold above which the PCR's apply, currently £173,934 for services and supplies and £4,348,350 for works</u>	New definition inserted as the EU Threshold changes every two years and so it is easier to change the value in the definition rather than throughout the Rules
1.1	<b>E-tendering system</b> the Council's chosen E-tendering system (currently SCMS)	<b>E-sourcing system</b> <u>means the Council's chosen E-sourcing system (currently YORTender) or an approved alternative</u>	Definition amended to capture the change of the electronic sourcing system
1.1		<b>FPP</b> <u>means the Forward Procurement Plan maintained as described in Rule 17.5</u>	Insertion of definition that was previously included within the Rule
1.1		<b>Framework Agreement</b> <u>means an agreement with one or more public</u>	New definition inserted to provide clarity about what a

Rule	Current Wording	Proposed Amendment	Reason
		<p>sector bodies which establishes an arrangement for:</p> <p>(i) <u>multiple orders to be placed with one Contractor (a single supplier framework), or</u></p> <p>(ii) <u>a framework of multiple Contractors to engage in further competitions (a multiple supplier framework)</u></p>	Framework Agreement is
1.1		<p><b><u>Gateway Process</u></b> means the Council's risk based gateway procurement process that combines assessment and understanding of various aspects of risk with appropriate review and scrutiny at defined points in the procurement cycle</p>	New definition inserted to provide clarity about what the Gateway Process is
1.1		<p><b><u>ITT</u></b> means an Invitation to Tender</p>	New definition of a frequently used term within the Rules
1.1	<p><b>Leasing Agreement</b> a contract for the provision of finance to enable goods or services to be obtained and where ownership in those goods does not automatically pass to the Council at the end of the contract period</p>	<p><b>Leasing Agreement</b> means a contract for the provision of finance to enable goods or services to be obtained and where ownership in those goods does not automatically pass to the Council at the end of the contract period</p>	To provide clarity
1.1		<p><b><u>LDSO</u></b> means a Legal and Democratic Services Officer</p>	New definition of a frequently used term within the Rules
1.1	<p><b>MEA</b> Most Economically Advantageous</p>	<p><b><u>MEAT</u></b> means the Most Economically Advantageous Tender</p>	To provide clarity



Rule	Current Wording	Proposed Amendment	Reason
1.1	<b>Member</b> a member of the Council or co-opted member on a Council committee	<b>Member</b> <u>means</u> a member of the Council or co-opted member on a Council committee	To provide clarity
1.1	<b>Officer</b> a Council employee or other authorised agent	<b>Officer</b> <u>means</u> a Council employee or other authorised agent	To provide clarity
1.1	<b>OJEU</b> the Official Journal of the European Union	<b>OJEU</b> <u>means</u> the Official Journal of the European Union	To provide clarity
1.1		<b><u>Participant</u></b> <u>means a person or entity participating in a procurement process</u>	New definition inserted to provide clarity
1.1	<b>Person</b> any individual, partnership, company, trust, other local authority, Government department or agency	<b>Person</b> <u>means</u> any individual, partnership, company, trust, other local authority, Government department or agency	To provide clarity
1.1		<b><u>PQQ</u></b> <u>means the Pre-Qualification Questionnaire</u>	New definition of a frequently used term within the Rules
1.1		<b><u>Procurement Manual</u></b> <u>means the manual to accompany these Rules which provides detailed guidance on procurement techniques and the effect of the Rules</u>	Insertion of definition that was previously included within the Rule
1.1	<b>Procurement Strategy</b> the Council's Procurement Strategy as agreed from time to time	<b>Procurement Strategy</b> <u>means</u> the Council's Procurement Strategy as agreed from time to time	To provide clarity
1.1	<b>Property Contract</b> a Contract which creates an estate or interest in land or buildings	<b>Property Contract</b> <u>means</u> a Contract which creates an estate or interest in land or buildings	To provide clarity

Rule	Current Wording	Proposed Amendment	Reason
1.1		<b>PCR</b> means the Public Contracts Regulations 2006 (as amended)	New definition of a frequently used term within the Rules
1.1	<b>Responsible Officer</b> the Officer who is responsible for the procurement and/or management of a Contract	<b>Responsible Officer</b> means the Officer who is responsible for the procurement and/or management of a Contract	To provide clarity
1.1	<b>Rules</b> these Rules	<b>Rules</b> means these Rules	To provide clarity
1.1	<b>Tenderer</b> a person who has expressed an interest in tendering for a Contract or who has tendered for a Contract	<b>Tenderer</b> means a person who has expressed an interest in tendering for a Contract or who has tendered for a Contract	To provide clarity
1.1	<b>Veritau</b> the Council's appointed internal audit contractor	<b>Internal Audit</b> means the Council's appointed internal auditors (currently Veritau)	Definition amended to provide clarity
1.1	<b>YPO</b> the Yorkshire Purchasing Organisation	<b>YPO</b> means the Yorkshire Purchasing Organisation	To provide clarity
1.2	<p><u>(e) Directors, the CD-SR and the ACE(LDS) shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-</u></p> <p><u>(i) Director - Rules 3.3</u>  <u>(ii) CD-SR - Rules 2.1, 2.4 and 2.5</u>  <u>(iii) ACE(LDS) - Rules 2.1, 2.4 and 2.5</u></p> <p><u>where delegation is not permitted. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the CD-SR and the ACE(LDS)</u></p>	<p><u>(e) Directors, the CD-SR and the ACE(LDS) shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-</u></p> <p><u>(i) Director - Rules 8.8, 8.9, 12.2, 16.1(h), 16.3 and 18.1</u>  <u>(ii) CD-SR - Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(h), 16.3, 17.3 and 18.1</u>  <u>(iii) ACE(LDS) - Rules 2.1, 2.4, 2.5, 8.8, 8.9, 12.2, 16.1(h) and 16.3</u></p>	<u>To update the Rules which refer explicitly to Directors, CD-SR and ACE(LDS)</u>

Rule	Current Wording	Proposed Amendment	Reason
		<u>where delegation is not permitted. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the CD-SR and the ACE(LDS)</u>	
2.2	<p>These Rules apply to all contracts for works, supplies and services but do not apply to:-</p> <p>(a) contracts of employment;</p> <p>(b) property contracts; and</p> <p>(c) financial instruments (including, but without limitation, shares, bonds, bills of exchange, future or options contracts).</p>	<p>These Rules apply to all contracts for works, <u>goods</u>, supplies and services but do not apply to:-</p> <p>(a) contracts of employment;</p> <p>(b) property contracts <u>(which are covered by the Property Procedure Rules)</u>; and</p> <p>(c) financial instruments (including, but without limitation, shares, bonds, bills of exchange, future or options contracts) <u>which are covered by the Financial Procedure Rules</u>).</p>	<p>Wording added to reflect the provisions of the Public Contracts Regulations 2006</p> <p>To add clarity to the reader</p> <p>To add clarity to the reader</p>
2.4	<p>The CD-SR (in consultation with the ACE(LDS)) shall review the application and effect of these Rules and make an annual report to the Audit Committee recommending such amendments to the Rules as are considered appropriate.</p>	<p>The CD-SR (in consultation with the ACE(LDS)) shall review the application and effect of these Rules and make an annual report <u>or as required but no less than once per year</u> to the Audit Committee recommending such amendments to the Rules as are considered appropriate.</p>	<p>To enable the CPR's to be amended more frequently than once per year if required.</p>
2.5	<p>The CD-SR and the ACE(LDS) have produced a <i>Procurement Manual</i> which provides detailed guidance on procurement techniques and the effect of the Rules. The Manual also sets out important issues to be considered in the procurement context including, but not limited to, the following:</p> <ul style="list-style-type: none"> <li>◆ TUPE</li> <li>◆ Sustainability</li> </ul>	<p>The CD-SR and the ACE(LDS) have produced a <i>Procurement Manual</i> which provides detailed guidance on procurement techniques and the effect of the Rules. The <u>Procurement Manual</u> also sets out important issues to be considered in the procurement context. <u>These Rules should be read in conjunction with the Procurement Manual.</u></p>	<p>To provide clarity and to direct the reader to ensure the guidance in the Procurement Manual is sought where appropriate</p>

Rule	Current Wording	Proposed Amendment	Reason
	◆ Equalities		
2.7	Directors shall ensure that all documentation relating to contracts is retained in accordance with the Council's Records Retention and Destruction Schedule.	Directors shall ensure that all documentation relating to <u>Contracts and procurement processes (including quotations)</u> is retained in accordance with the Council's Records Retention and Destruction Schedule.	To ensure the requirements of the Council's Records Retention and Destruction Schedule are properly adhered to
2.9	Wherever possible and appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to invitations to tender or to submit quotations. The standard pre qualification questionnaire must be used for all procurements. Wherever alternative documents are to be used they must be approved by ACE(LDS) in consultation with CD-SR as appropriate	Wherever possible and appropriate procurement shall be undertaken using the standard precedent documents contained in the Procurement Manual applying to <u>PQQ's</u> , invitations to tender or to submit quotations. Wherever alternative documents are to be used they must be approved by ACE(LDS) in consultation with <u>CPG (or Corporate Procurement Lead)</u> as appropriate.	To use the properly defined terms and to simplify the sign off process
5.0	<p><b>5.0 SIGNATURE/SEALING OF CONTRACTS</b></p> <p>5.1 Every written contract must be either signed or sealed in accordance with this Rule and where contracts have a value exceeding £50,000 they <u>must</u> be either sealed, or signed by two Officers as described below.</p> <p>5.2 The ACE(LDS) and such of her staff as she may designate are authorised to sign any such contract.</p> <p>5.2.1 The ACE(LDS) also authorises such contracts to be signed by Directors (or by an Officer authorised by a Director to sign on the Director's behalf) up to and including the financial limits in <b>Rule 5.3</b> provided that:-</p>	<p><b><u>6.0 SIGNATURE/SEALING OF CONTRACTS</u></b></p> <p><u>6.1</u> Every written contract must be either signed or sealed in accordance with this Rule and where contracts have a value exceeding £50,000 they <u>must</u> be either sealed, or signed by two Officers as described below.</p> <p><u>6.2</u> The ACE(LDS) and such of her staff as she may designate are authorised to sign any such contract.</p> <p><u>6.2.1</u> The ACE(LDS) also authorises such contracts to be signed by Directors (or by an Officer authorised by a Director to sign on the Director's behalf) up to and including <u>£500,000</u> provided that:-</p>	<p>Renumbered 6.0.</p> <p>The previous financial limits have been removed and one financial limit of £500,000 is now in place to allow consistency across all Directorates</p>

Rule	Current Wording	Proposed Amendment	Reason
	<p>(a) appropriate authority exists for the Council to enter into the contract, and</p> <p>(b) the contract is either:-</p> <p>(i) in a nationally recognised form, or</p> <p>(ii) a standard form prepared or approved by the ACE(LDS), or</p> <p>(iii) is otherwise in a form approved by the ACE(LDS)</p> <p>and</p> <p>(c) any variations to approved forms of contract must themselves be approved by the ACE(LDS), whether or not they are effected by amending the contract itself or by correspondence</p> <p>5.3 The financial limits relating to <b>Rule 5.2</b> are:</p> <p>(a) Health and Adult Services Directorate, Business and Environmental Services Directorate and Central Services Directorate</p> <p>£500,000</p> <p>(b) Children and Young People’s Service Directorate</p> <p>£200,000</p>	<p>(a) appropriate authority exists for the Council to enter into the <u>C</u>ontract, and</p> <p>(b) the contract is either:-</p> <p>(i) in a nationally recognised form, or</p> <p>(ii) a standard form prepared or approved by the ACE(LDS), or</p> <p>(iii) is otherwise in a form approved by the ACE(LDS); <u>and</u></p> <p>(c) any variations to approved forms of <u>C</u>ontract must themselves be approved by the ACE(LDS), whether or not they are effected by amending the <u>C</u>ontract itself or by correspondence</p> <p><u>6.2.2</u> Contracts that exceed <u>£500,000</u> shall be signed by:</p> <p>(a) the ACE(LDS) (or a Legal and Democratic Services’ Officer authorised by her); and</p> <p>(b) an authorised signatory in the relevant Directorate (or another Legal and Democratic Services’ Officer authorised by the ACE(LDS)).</p> <p><u>6.2.3</u> Only the ACE(LDS) (or a Legal and Democratic Services’ Officer authorised by the ACE(LDS)) may seal a <u>C</u>ontract on behalf of the Council, in each case being satisfied that there is</p>	<p>Amended to reflect the new single financial limit</p>

Rule	Current Wording	Proposed Amendment	Reason
	<p>(c) Chief Executive Officer's Unit £50,000</p> <p>5.4 Contracts that exceed the financial limits specified in <b>Rule 5.3</b> shall be signed by:</p> <p>(a) the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by her); and</p> <p>(b) an authorised signatory in the relevant Directorate (or another Legal and Democratic Services' Officer authorised by the ACE(LDS)).</p> <p>5.5 Only the ACE(LDS) (or a Legal and Democratic Services' Officer authorised by the ACE(LDS)) may seal a contract on behalf of the Council, in each case being satisfied that there is appropriate authority to do so.</p>	<p>appropriate authority to do so.</p>	
6.0	<p><b>6.0 FORM OF CONTRACT</b></p> <p>6.1 Every contract exceeding £100 in value shall be evidenced in writing (by the use of an order form, exchange of correspondence or other written medium).</p> <p>6.2 Every contract exceeding £20,000 in value shall be documented by a written form of agreement. Wherever appropriate and possible, such written agreements shall be made on the basis of terms and conditions agreed by the ACE(LDS) (in consultation with the CD-SR). Such terms and conditions may be incorporated</p>	<p><b><u>5.0</u> FORM OF CONTRACT</b></p> <p><u>5.1</u> Every contract exceeding £100 in value shall be evidenced in writing (by the use of an order form, exchange of correspondence or other written medium).</p> <p><u>5.2</u> Every contract exceeding £20,000 in value shall be documented by a written form of agreement. Wherever appropriate and possible, such written agreements shall be made on the basis of terms and conditions agreed by the ACE(LDS). Such terms and conditions may be incorporated into standard order conditions.</p>	<p>Renumbered 5.0.</p>

Rule	Current Wording	Proposed Amendment	Reason
	<p>into standard order conditions. The Council may accept different terms and conditions proposed by a Contractor provided that the advice of the ACE(LDS) as to their effect has been sought and considered.</p> <p>6.3 The written form of agreement for all contracts exceeding £20,000 in value must clearly specify the obligations of the Council and the Contractor and shall include:-</p> <p>(a) the work to be done or the goods or services to be supplied</p> <p>(b) the standards which will apply to what is provided</p> <p>(c) the price or other consideration payable</p> <p>(d) the time in which the contract is to be carried out</p> <p>(e) the remedies which will apply to any breach of contract.</p> <p>6.4 Where considered appropriate by the CD-SR, term contracts and framework contracts may include a financial limit above which value, work to be done or goods or services to be supplied shall be subject to a separate procurement exercise in accordance with these Rules.</p> <p>6.5 The written form of agreement for all contracts exceeding £20,000 in value must include the following or equivalent wording:-</p>	<p>The Council may accept different terms and conditions proposed by a Contractor provided that the advice of the ACE(LDS) as to their effect has been sought and considered.</p> <p><u>5.3</u> The written form of agreement for all contracts exceeding £20,000 in value must clearly specify the obligations of the Council and the Contractor and shall include:-</p> <p>(a) the work to be done or the goods or services to be supplied</p> <p>(b) the standards which will apply to what is provided</p> <p>(c) the price or other consideration payable</p> <p>(d) the time in which the contract is to be carried out</p> <p>(e) the remedies which will apply to any breach of contract</p> <p><u>5.4</u> Where considered appropriate by the CD-SR, term contracts and framework contracts may include a financial limit above which value, work to be done or goods or services to be supplied shall be subject to a separate procurement exercise in accordance with these Rules.</p> <p><u>5.5</u> The written form of agreement for all contracts exceeding £20,000 in value must include the following or equivalent wording:-</p> <p>(a) "If the Contractor:-</p>	

Rule	Current Wording	Proposed Amendment	Reason
6.5.1	<p>(a) "If the Contractor:-</p> <p>(i) Has offered any gift or consideration of any kind as an inducement or disincentive for doing anything in respect of this Contract or any other Contract with the Council, or</p> <p>(ii) Has committed any offence under the Prevention of Corruption Acts 1889 to 1916 or the Bribery Act 2010, or</p> <p>(iii) Has committed an offence under Section 117 (2) of the Local Government Act 1972</p> <p>the Council may terminate the Contract immediately and will be entitled to recover all losses resulting from such termination".</p> <p>(b) "If the Contractor is in persistent and/or material breach of contract the Council may terminate the Contract and purchase the supplies, works or services from a third party and the Council may recover the cost of doing so from the Contractor".</p> <p>Other standard Rules are contained in the Procurement Manual relating to, for example, freedom of information, data protection, equalities, sustainability and best value; these are not mandatory for each such written</p>	<p>(i) Has offered any gift or consideration of any kind as an inducement or disincentive for doing anything in respect of this Contract or any other Contract with the Council, or</p> <p>(ii) Has committed any offence under the Prevention of Corruption Acts 1889 to 1916 or the Bribery Act 2010, or</p> <p>(iii) Has committed an offence under Section 117 (2) of the Local Government Act 1972</p> <p>the Council may terminate the Contract immediately and will be entitled to recover all losses resulting from such termination".</p> <p>(b) "If the Contractor is in persistent and/or material breach of contract the Council may terminate the Contract and purchase the supplies, works or services from a third party and the Council may recover the cost of doing so from the Contractor."</p> <p><u>5.6</u> <u>The standard Rules contained in the Procurement Manual relating to the Freedom of Information Act 2000 and the Data Protection Act 1998 shall, wherever possible, be included in all Contracts exceeding £20,000 in value.</u></p> <p><u>5.7</u> Other standard Rules are contained in the</p>	<p>To clarify the importance of including FOI and DPA provisions within the Contract wherever possible</p>



Rule	Current Wording	Proposed Amendment	Reason
	agreement referred to in <b>Rule 6.5</b> above, but should be included where appropriate.	Procurement Manual relating to, for example, equalities, <u>Public Services (Social Value) Act 2012</u> , sustainability and best value; these are not mandatory for each such written agreement referred to in Rule <u>5.5</u> above, but should be included where appropriate.	To reflect the new legislation
7.1	Directors (in consultation with the CD-SR) shall consider whether to include provision for the payment of liquidated damages by a Contractor for breach of contract in all contracts which exceed £20,000 in value.	Directors (in consultation with the CD-SR) shall consider whether to include provision for the payment of liquidated damages by a Contractor for breach of contract in all contracts which exceed <u>£100,000</u> in value. <u>Such consideration shall be recorded in the Gateway Processes (Gateway 2).</u>	To amend the financial limit as the current limit is too low.  To refer to the Gateway Process in order to reflect the Council's risk assessment mechanism
8.2.1	If the estimated value of a contract exceeds £5,000 but is less than £10,000 at least three written quotations must be invited from suitable potential Contractors. The estimated value of the contract shall be recorded in writing prior to quotations being sought.	If the estimated value of a contract exceeds £5,000 but is less than <u>£20,000</u> at least three written quotations must be invited from suitable potential Contractors. The estimated value of the contract shall be recorded in writing prior to quotations being sought.	The financial limit has been increased. The threshold has not been amended since at least 2005 and, as such limits refer to the whole life value of the contract, it is felt appropriate to increase the financial limit at which formal quotations are sought. The amendment accounts for <ul style="list-style-type: none"> <li>• Increases in the EU Threshold widening the gap between internal and external requirements.</li> <li>• The time value of money.</li> </ul> This will also correspond with the value in Rule 5.
8.2.2	If the estimated value of a contract exceeds £10,000, but is less than £50,000 at least three written quotations must be invited from suitable potential contractors. The estimated value of the contract shall be recorded in	If the estimated value of a contract exceeds <u>£20,000</u> , but is less than <u>£100,000</u> at least three written quotations must be invited from suitable potential contractors. The estimated value of the contract shall	The financial limit has been increased. The threshold has not been amended since at least 2005 and, as such limits refer to the whole life value of the

Rule	Current Wording	Proposed Amendment	Reason
	writing prior to quotations being sought and quotations must be invited using the e-tendering system.	be recorded in writing prior to quotations being sought and quotations must be invited using the <u>E-sourcing</u> system.	contract, it is felt appropriate to increase the financial limit at which tenders are sought. The amendment accounts for <ul style="list-style-type: none"> <li>• Increases in the EU Threshold widening the gap between internal and external requirements.</li> <li>• The time value of money.</li> </ul>
8.4	A written quotation may only be considered if:- <ul style="list-style-type: none"> <li>(a) it has been received electronically through the e-tendering system, or</li> <li>(b) it has been received in a sealed envelope marked "Quotation" and indicating the subject matter of the quotation and</li> <li>(c) It has been opened after the expiry of the deadline for submissions and at the same time as other quotations for the same subject matter in the presence of at least two Officers authorised to open quotations.</li> </ul>	A written quotation may only be considered if:- <ul style="list-style-type: none"> <li>(a) it has been received electronically through the <u>E-sourcing</u> system, or</li> <li>(b) it has been received in a sealed envelope marked "Quotation" and indicating the subject matter of the quotation and</li> <li>(c) it has been opened after the expiry of the deadline for submissions and at the same time as other quotations for the same subject matter in the presence of at least two Officers authorised to open quotations.</li> </ul>	To reflect the amended definition
8.5	Each Director shall maintain electronic or written records of all quotations received in accordance with the Document Retention Policy.	Rule deleted.	Rule deleted as Rule 2.7 now incorporates this requirement
8.6	Before quotations are requested it must be recorded in writing whether the lowest price or the MEA quotation should be accepted. Where both price and quality are to be factors (ie where MEA applies) the quality criteria	<u>8.5</u> Before quotations <u>of a value in excess of £20,000</u> are requested it must be recorded in writing whether the lowest price or the <u>most economically advantageous</u> quotation should be	Wording added to provide clarity

Rule	Current Wording	Proposed Amendment	Reason
	must be identified and the weighting between price and quality established and recorded before quotations are requested. The criteria should be stated in the request for quotation sent to suppliers. Advice should be sought from the CD-SR on the design and operation of any evaluation model to be used as part of the selection process.	accepted. Where both price and quality are to be factors (ie where <u>most economically advantageous quotation</u> applies) the quality criteria must be identified and the weighting between price and quality established and recorded before quotations are requested. The criteria should be stated in the request for quotation sent to suppliers.	
8.7	Price/quality quotation evaluation models must be lodged with Veritau before any quotations are opened.	<u>8.6</u> Price/quality quotation evaluation models must be lodged with <u>Internal Audit</u> before any quotations are opened.	To reflect the amended definition
8.8	<p>If:-</p> <p>(a) a quotation other than the lowest or the MEA quotation (as the case may be) is to be accepted, or</p> <p>(b) fewer than three quotations have been received,</p> <p>the written approval of the Director (in consultation with the CD-SR or if the relevant Director is the CD-SR, in consultation with the Chief Executive) shall be sought and obtained before the quotation is accepted.</p>	<u>8.7</u> If a quotation other than the lowest or the <u>most economically advantageous</u> quotation (as the case may be) is to be accepted, the written approval of the Director (in consultation with the CD-SR or if the relevant Director is the CD-SR, in consultation with the Chief Executive) shall be sought and obtained before the quotation is accepted.	The requirement to obtain approval from the CD-SR to proceed to award where fewer than 3 quotations have been received has been removed due to being unnecessarily cumbersome. The Gateway Process and the role of the Directorate Procurement Champions will ensure this is governed satisfactorily.
8.9	<p>A quotation for a price in excess of £50,000 may be accepted if (and only if):-</p> <p>(a) the original documented estimated price was less than £50,000 <b>and</b></p> <p>(b) the price quoted does not exceed that original documented estimated price by more than 10% <b>and</b></p>	<p><u>8.8</u> A quotation for a price in excess of <u>£100,000</u> may be accepted if (and only if):-</p> <p>(a) the original documented estimated price was less than <u>£100,000</u> <b>and</b></p> <p>(b) the price quoted does not exceed that original documented estimated price by more than 10% <b>and</b></p>	The value has been amended to reflect the change to Rule 8.2.2

Rule	Current Wording	Proposed Amendment	Reason
	<p>(c) the written approval of the Director (in consultation with the CD-SR) has been obtained.</p> <p>If the conditions at (a), (b) and (c) are not met, Directors must seek tenders in accordance with <b>Rule 9</b>.</p>	<p>(c) the written approval of the Director (in consultation with the CD-SR) has been obtained.</p> <p>If the conditions at (a), (b) and (c) are not met, Directors must seek tenders in accordance with <b>Rule 9</b>.</p>	
8.10	Where a quotation involves payment to the Council, the provisions of <b>Rules 8.6 and 8.8</b> shall apply except that the word "lowest" shall be replaced by the word "highest" in these paragraphs.	<u>8.9</u> Where a quotation involves payment to the Council, the provisions of <b>Rules 8.6 and 8.8</b> shall apply except that the word "lowest" shall be replaced by the word "highest" in these paragraphs.	Renumbering.
8.10		<u>8.10</u> <u>Quotations may be altered only in accordance with <b>Rules 13.1 and 13.2</b>.</u>	Moved from 12.3 in order to contain all provisions relating to quotations within one Rule for clarity.
	<b>Risk Assessment</b>	<b><u>Financial Stability</u></b>	New heading to provide clarity.
9.1	If the estimated value is £50,000 or more electronic tenders must be invited using the e-tendering system in accordance with the following provisions of this Rule.	If the estimated value <u>of the Contract</u> is £100,000 or more tenders <u>shall</u> be invited in accordance with the provisions of this Rule.	New value inserted to reflect the increased threshold.  'Shall' inserted to clarify the obligation to obtain tenders
9.2		<u>9.2</u> <u>If the estimated value of the Contract exceeds the limits set out in the Public Contracts Regulations 2006 the additional requirements for OJEU Procurements, set out in <b>Rule 10.3</b>, shall be followed.</u>	New Rule inserted to ensure the additional requirements of the Public Contracts Regulations are met
		<b><u>General Requirements</u></b>	New heading
9.2-	9.2 Before Directors invite tenders it must be	<u>9.3</u> Before Directors invite tenders it <u>shall</u> be	The wording previously

Rule	Current Wording	Proposed Amendment	Reason
9.3	<p>recorded in writing whether the lowest price or the MEA tender is to be accepted. Where both price and quality are to be factors (i.e. where MEA applies) the quality criteria must be identified and the weighting between price and quality established and recorded before tenders are invited. The criteria, sub-criteria and weighting should be stated in the invitation to tender sent to tenderers. Advice should be sought from the CD-SR on the design and operation of any evaluation model to be used as part of the selection process.</p> <p>9.3 All potential Contractors invited to submit tenders shall be provided in all instances with identical information and instructions. Where considered appropriate, a Director may, (in consultation with the CD-SR) permit potential Contractors who have been selected to submit tenders under <b>Rule 9.1</b> to also submit variant tenders (ie tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant tenders must be given to all potential Contractors.</p>	<p>recorded in writing for all Contracts whether the <u>Contract will be awarded on the basis of price or the Most Economically Advantageous Tender (MEAT), a combination of price and quality.</u></p> <p><u>9.4 If a Contract is to be awarded on the basis of the MEAT, the criteria to be used in the assessment of the quality elements of the tenders and the weighting between price and quality shall be established and recorded in writing before tenders are invited. For all Contracts, the tender assessment criteria, sub-criteria and weightings shall be stated in the Invitation to Tender.</u></p> <p><u>9.5 If a Contract is to be awarded on a price only basis it shall be recorded whether the award will be made on the basis of the lowest Price or any other tendered Price.</u></p> <p><u>9.6 All Participants invited to submit tenders shall be provided with identical Instructions and information.</u></p> <p><u>9.7 Where considered appropriate, a Director may, in consultation with the DPC, permit Participants to submit variant tenders (ie tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant tenders shall be given to all Participants. Variant tenders shall only be considered if the Participant also submits a compliant primary tender.</u></p> <p><u>9.8 Evaluation models for PQQ's and ITT's shall be lodged with Internal Audit before any submission documents are opened. The Evaluation Model</u></p>	<p>contained within Rules 9.2 and 9.3 has been separated out into shorter Rules and amended slightly in order to simplify and clarify the process.</p> <p>New defined terms have been added</p>

Rule	Current Wording	Proposed Amendment	Reason
		<u>shall not be divulged to potential Contractors.</u>	
9.4	Questionnaire and tender evaluation models must be lodged with Veritau before any documents are opened.	Rule deleted.	Rule now covered by Rule 9.8
9.5-9.5.1	<p>Directors must seek tenders on the basis of one of the following procedures:-</p> <p><b>9.5.1 Restricted Tenders</b></p> <p>(a) A notice inviting expressions of interest must be given on the e-tendering system and, in appropriate, in a newspaper (which may be local, regional, or national but must be appropriate for the subject matter of the contract) and/or in a suitable trade journal where appropriate. Consideration should be given to the subject matter and value of the contract when deciding which form of advertising to use. Where required an OJEU Contract Notice must also be placed. The notice must specify brief details of the subject matter of the contract and invite potential contractors to apply to the Council to be considered for invitation to tender by the Council. Details must be included in the notice specifying how such expressions of interest are to be submitted and the closing date for their receipt by the Council.</p> <p>(b) The deadline date must be at least 28 days after the first advertisement for the contract is published and, where relevant, at least 14 days after the last advertisement is published. Where an OJEU Notice is required, the deadline date must be in accordance with the</p>	Rule deleted	Rule now covered by Rule 10.2 in order to simplify the process

Rule	Current Wording	Proposed Amendment	Reason
	<p>timescales set out in the Public Contracts Regulations 2006.</p> <p>(c) The selection criteria which are to be applied in evaluating expressions of interest must be recorded in writing before the expressions of interest are invited and must be stated in the documents sent to suppliers. Evaluation models must be lodged with Veritau before expressions of interest are opened.</p> <p>(d) After expressions of interest have been received the Director (in consultation with the CD-SR and such other Officers as are appropriate having regard to the subject matter and likely value of the contract) shall evaluate the expressions of interest received.</p> <p>(e) After evaluation, invitations to tender shall be sent to at least five tenderers selected by the Director in consultation with the CD-SR or, if less than five tenderers applied or are considered suitable, such tenderers as have been selected by the Director (in consultation with the CD-SR).</p> <p>(f) The award criteria which are to be applied in evaluating tenders must be recorded in writing before the tenders are invited and must be stated in the documents sent to suppliers. Evaluation models must be lodged with Veritau before tenders are opened.</p>		
9.8		<u>9.9</u> <u>Directors shall invite tenders on the basis of one of the options identified in <b>Rule 10.</b></u>	New wording inserted to introduce the different options of procurement available

Rule	Current Wording	Proposed Amendment	Reason
10.0		<b>10.0 OPTIONS FOR TENDER</b>	New heading.
		<u>Tenderers shall be invited on the basis of one of the following options:</u>	New wording inserted to introduce the different options of procurement available
9.5.2	<p><b>Open Tenders</b></p> <p>If a Director (in consultation with the CD-SR) considers it appropriate that any invitation to tender shall be made to all potential contractors, the following procedures shall apply:-</p> <p>(i) An invitation to tender notice must be given on the e-tendering system and, if appropriate, in a newspaper (which may be local, regional or national but must be appropriate for the subject matter of the tender) and/or in a suitable trade journal where appropriate. Consideration should be given to the subject matter and value of the contract when deciding which form of advertising to use. Where required, an OJEU Contract Notice must also be placed. The notice must specify brief details of the subject matter of the contract, how documents may be obtained and the tender closing date.</p> <p>(ii) The deadline date must be at least 28 days after the publication of the first advertisement for the initiation to tender notice and, where relevant, at least 14 days after the last invitation to tender notice is published. Where an OJEU</p>	<p><b>10.1 Open Tenders</b></p> <p><b>10.1.1</b> If a Director, in consultation with the DPC, considers it <u>to be</u> appropriate that any <u>ITT</u> shall be <u>available</u> to all potential <u>Participants</u> then the following procedures shall apply:-</p> <p>(i) A notice <u>advertising the opportunity shall be published through the E-sourcing system</u> and, if <u>considered appropriate</u>, a <u>local newspaper</u> and a <u>suitable professional or trade journal or website</u>. <u>The form of advertising shall take into account the value, location and subject matter of the Contract</u>. The notice <u>shall specify brief details of the Contract, how the Invitation to Tender documents may be obtained and the closing date for receipt of tenders by the Council</u>.</p> <p>(ii) The deadline date <u>for the return of tenders shall be at least 28 days after the publication of the first advertisement of the ITT</u> and, where relevant, at least 14 days after the last <u>ITT advertisement</u> is published.</p> <p>(iii) The criteria which are to be applied in <u>the evaluation of the tenders shall be</u></p>	<p>The wording previously contained within Rule 9.5.2 has been separated out into shorter Rules and amended slightly in order to simplify and clarify the process.</p> <p>All provisions relating to Open Tenders are now contained within this Rule</p> <p>New defined terms have been added</p>



Rule	Current Wording	Proposed Amendment	Reason
	<p>Notice is required, the deadline date must be in accordance with the timescales set out in the Public Contracts Regulations 2006.</p> <p>(iii) The selection and award criteria which are to be applied in evaluation tenders must be recorded in writing before the tenders are invited and must be stated in the document sent to suppliers. Evaluation models must be lodged with Veritau before tenders are opened.</p>	<p><u>recorded in writing before ITT's are issued and shall be included in the documents provided to all Participants.</u></p> <p>(iv) <u>The evaluation of the tenders shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.</u></p> <p>(v) <u>The evaluation model shall be lodged with Internal Audit before any submission documents are opened. The evaluation model shall not be divulged to Participants.</u></p>	
		<b><u>Restricted Tenders</u></b>	
9.5.1	<p>9.5.1 <b>Restricted Tenders</b></p> <p>(a) A notice inviting expressions of interest must be given on the e-tendering system and, in appropriate, in a newspaper (which may be local, regional, or national but must be appropriate for the subject matter of the contract) and/or in a suitable trade journal where appropriate. Consideration should be given to the subject matter and value of the contract when deciding which form of advertising to use. Where required an OJEU Contract Notice must also be placed. The notice must specify brief details of the subject matter of the contract and</p>	<p><u>If a Director, in consultation with the DPC, considers it appropriate that any ITT shall be restricted to selected Participants by issuing a PQQ to all potential Participants followed by an ITT to those Participants selected at the PQQ stage then the following procedures shall apply:</u></p> <p>(i) A notice inviting expressions of interest <u>shall be published through the E-sourcing system and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the value, location and subject matter of the Contract. The notice shall specify brief details of the Contract and invite potential Contractors</u></p>	<p>The wording previously contained within Rule 9.5.1 has been separated out into shorter Rules and amended slightly in order to simplify and clarify the process.</p> <p>All provisions relating to Restricted Tenders are now contained within this Rule</p> <p>New defined terms have been added</p>

Rule	Current Wording	Proposed Amendment	Reason
	<p>invite potential contractors to apply to the Council to be considered for invitation to tender by the Council. Details must be included in the notice specifying how such expressions of interest are to be submitted and the closing date for their receipt by the Council.</p> <p>(b) The deadline date must be at least 28 days after the first advertisement for the contract is published and, where relevant, at least 14 days after the last advertisement is published. Where an OJEU Notice is required, the deadline date must be in accordance with the timescales set out in the Public Contracts Regulations 2006.</p> <p>(c) The selection criteria which are to be applied in evaluating expressions of interest must be recorded in writing before the expressions of interest are invited and must be stated in the documents sent to suppliers. Evaluation models must be lodged with Veritau before expressions of interest are opened.</p> <p>(d) After expressions of interest have been received the Director (in consultation with the CD-SR and such other Officers as are appropriate having regard to the subject matter and likely value of the contract) shall evaluate the expressions of interest received.</p>	<p>to <u>complete and submit PQQ to the Council in order to be considered to be invited to tender. The notice shall include details as to how PQQ's are to be submitted and the closing date for their receipt by the Council.</u></p> <p>(ii) <u>The deadline date for the return of PQQ's shall be at least 28 days after the publication of the first advertisement of the opportunity and, where relevant, at least 14 days after the last advertisement is published.</u></p> <p>(iii) <u>The selection criteria which are to be applied in the evaluation of the PQQ's shall be recorded in writing before the PQQ's are invited and shall be included the documents provided to all Participants.</u></p> <p>(iv) <u>The evaluation of the PQQ's shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.</u></p> <p>(v) <u>After evaluation of the PQQ's, ITT's shall be published to at least five Participants or, if less than five potential Participants applied or are considered suitable, such Participants as have been selected by the Director.</u></p> <p>(vi) <u>The deadline date for the receipt of tenders shall be at least 40 days after</u></p>	

Rule	Current Wording	Proposed Amendment	Reason
	<p>(e) After evaluation, invitations to tender shall be sent to at least five tenderers selected by the Director in consultation with the CD-SR or, if less than five tenderers applied or are considered suitable, such tenderers as have been selected by the Director (in consultation with the CD-SR).</p> <p>(f) The award criteria which are to be applied in evaluating tenders must be recorded in writing before the tenders are invited and must be stated in the documents sent to suppliers. Evaluation models must be lodged with Veritau before tenders are opened.</p>	<p><u>the date of dispatch of the ITT's.</u></p> <p>(vii) <u>The criteria which are to be applied in the evaluation of the tenders shall be recorded in writing before ITT's are published and shall be included in the documents provided to all Participants.</u></p> <p>(viii) <u>The evaluation of tenders shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.</u></p> <p>(ix) <u>The evaluation model shall be lodged with Internal Audit before any submission documents are opened. The evaluation model shall not be divulged to potential Contractors.</u></p>	
10.3		<p><b><u>10.3 OJEU Tenders</u></b></p> <p><u>Tenders for Contracts which exceed the EU Threshold shall be invited and awarded as prescribed in <b>Rule 10.1</b> or <b>Rule 10.2</b> but taking into account the following amendments:</u></p> <p><b><u>10.3.1 Open Tenders:</u></b> <u>the deadline date for the return of tenders shall be a minimum of 52 days after the publication of the first advertisement of the ITT. The actual deadline date shall be determined having taken into consideration the complexity of the Contract and the time required for the completion of the tender documents by potential Contractors.</u></p>	To provide clarity regarding the additional requirements that must be adhered to in respect of Contracts falling within the Public Contracts Regulations.

Rule	Current Wording	Proposed Amendment	Reason
		<p><u>10.3.2</u> <b>Restricted Tenders:</b> the deadline date for the return of PQQ's shall be at least 37 days after the publication of the first advertisement of the opportunity. The deadline date for the receipt of tenders shall be at least 40 days after the date of publication of the ITT.</p> <p><u>10.3.3</u> The minimum deadline dates for <b>Open and Restricted tenders</b> may be reduced to a period generally not less than 36 days and in any event not less than 22 days if a Prior Information Notice (PIN) has been published in accordance with the Public Contracts Regulations 2006.</p>	
9.5.4	<p><b>9.5.4 Framework Agreements</b></p> <p>If a Director (in consultation with the CD-SR) considers it appropriate to establish a framework agreement then the framework will be established using the procedures set out in either <b>Rule 9.5.1 or 9.5.2</b>. The procedure prescribed by the Public Contracts Regulations 2006 shall apply to all aspects of the procurement and operation of the framework agreement including (but without limitation):-</p> <ul style="list-style-type: none"> <li>(i) The procurement methodology;</li> <li>(ii) Any orders placed under the framework agreement;</li> <li>(ii) The re-opening of competition between contractors who have been awarded framework agreement (ie further competitions); and</li> </ul>	<p><b><u>10.4</u> Framework Agreements</b></p> <p><u>10.4.1</u> If a Director considers it appropriate to establish a Framework Agreement then the Framework Agreement shall be established using the procedures set out in either <b>Rule 10.1 or 10.2</b>.</p> <p><u>10.4.2</u> The procedure prescribed by the Public Contracts Regulations 2006 shall apply to all aspects of the procurement and to the subsequent operation of the Framework Agreement including, but not limited to:</p> <ul style="list-style-type: none"> <li>(i) the procurement methodology;</li> <li>(ii) the placement of orders under the Framework Agreement;</li> <li>(iii) further competition between Contractors appointed to the Framework Agreement (ie further competitions);</li> </ul>	<p>The wording previously contained within Rule 9.5.4 has been separated out into shorter Rules and amended slightly in order to simplify and clarify the process.</p> <p>All provisions relating to Framework Agreements are now contained within this Rule</p> <p>New defined terms have been added</p>

Rule	Current Wording	Proposed Amendment	Reason
	(iv) The duration of a framework agreement (which shall not exceed four years).	<u>10.4.3</u> The duration of a Framework Agreement shall be limited, as prescribed by the Public Contracts Regulations 2006, to a maximum of four years including any extension periods.	
9.5.3	<p><b>9.5.3 Approved Lists</b></p> <p>If a Director (in consultation with the CD-SR) considers it appropriate to maintain an approved list of suitable contractors for particular types and/or values of work and the estimated value of the work is below the Public Contracts Regulations 2006 threshold the following procedures shall apply:-</p> <p>(i) A notice must be given on the e-tendering system and if appropriate in a newspaper (which may be local, regional or national but must be appropriate for the subject matter of the contract) and or in a suitable trade journal where appropriate. The notice must specify brief details of the subject matter of the approved list and invite potential contractors to apply to the Council to be considered for inclusion on the approved list. Details must be included on the notice how such expressions of interest are to be submitted and the closing date for their receipt by the Council.</p> <p>(ii) This deadline date must be at least 28 days after the first advertisement for the approved list is published and, where relevant, at least 14 days after the last</p>	<p><b><u>10.5</u> Approved Lists</b></p> <p><u>10.5.1</u> If a Director considers it appropriate to maintain a list of suitable Contractors for particular types of work and/or goods and/or services where the estimated value of the work and/or goods and/or services is below the limits set out in the Public Contracts Regulations 2006 the list of suitable Contractors shall be established using the procedures set out below:</p> <p><u>10.5.2</u> A notice inviting expressions of interest shall be published through the E-sourcing system and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the value, location and subject matter of the Contract. The notice shall specify brief details of the Contract and invite potential contractors to apply to the Council to be considered for inclusion on the approved list by the Council. The notice shall include details as to how expressions of interest are to be submitted and the closing date for their receipt by the Council.</p> <p><u>10.5.3</u> The deadline date for the return of expressions of interest shall be at least 28 days after the publication of the first advertisement of the expressions of interest and, where relevant, at least 14 days after the last advertisement is published.</p>	<p>The wording previously contained within Rule 9.5.3 has been separated out into shorter Rules and amended slightly in order to simplify and clarify the process.</p> <p>All provisions relating to Approved Lists are now contained within this Rule</p> <p>New defined terms have been added</p>

Rule	Current Wording	Proposed Amendment	Reason
	<p>advertisement is published.</p> <p>(iii) The selection criteria which are to be applied in evaluating expressions of interest must be recorded in writing and stated in documents sent to tenderers before the expressions of interest are invited.</p> <p>(iv) After expressions of interest have been received the Director (in consultation with the CD-SR and such other officers as are appropriate having regard to the subject matter and likely value of such type of contract(s)) shall evaluate the expressions of interest received. The Director shall then maintain a list of such approved contractors categories by value and/or type of contract.</p> <p>(v) The Director may remove contractors from an existing approved list where the Director and CD-SR and the ACE(LDS) agree that such removal is appropriate, having regard to the conduct and/or status of the contractor and all other relevant factors.</p> <p>(vi) The Director (in consultation with the CD-SR) may approve an application from a potential contractor to be added to an existing approved list.</p> <p>(vii) Invitations to tender shall be sent via the e-tendering system to at least five contractors on the approved list or to all contractors on the approved list if it</p>	<p><u>10.5.4</u> The selection criteria which are to be applied in <u>the evaluation of the expressions of interest shall be recorded in writing before expressions of interest are invited and shall be included in the documents provided to all potential Contractors.</u></p> <p><u>10.5.5</u> <u>The evaluation of expressions of interest shall be carried out by Officers, nominated by the Director in consultation with the DPC, who are considered appropriate having regards for the subject matter and value of the Contract.</u> The Director shall then maintain a list of approved contractors <u>categorised by works type and value as may be applicable.</u></p> <p><u>10.5.6</u> <u>The Director shall review the performance of all Contractors on the approved list at regular intervals, not exceeding 12 months from the date of appointment of the Contractor to the approved list.</u></p> <p><u>10.5.7</u> The Director may remove contractors from an approved list where the Director and CD-SR agree that such removal is appropriate having <u>regards for the conduct, performance and/or status of the Contractor in relation to those standards identified in the original expressions of interest.</u></p> <p><u>10.5.8</u> The Director <u>may, after</u> consultation with CD-SR approve an application from a potential contractor to be added to an existing approved list.</p> <p><u>10.5.9</u> Invitations to <u>Tender or Invitations to Quote</u> shall</p>	

Rule	Current Wording	Proposed Amendment	Reason
	<p>includes fewer than five contractors.</p> <p>(viii) Each Director shall maintain arrangements so as to provide the CD-SR, on request, with a report of tenders invited from approved lists which will include the names of persons invited to tender and the reasons for selection.</p> <p>(ix) Approved Lists may remain in force for no longer than five years; before the expiration of the Approved List a replacement shall be established (if appropriate) in accordance with <b>Rule 9.5.3.</b></p>	<p>be <u>invited in accordance with Rule 10 or Rule 8.</u></p> <p><u>10.5.10</u> The Director shall maintain records of the tenders or quotations invited from an approved list <u>such that</u> the names of the Contractors invited to tender, the selection process and Contracts awarded to each Contractor are available for inspection.</p> <p><u>10.5.11</u> Approved Lists may remain in force for a <u>maximum of five years.</u> Before the expiration of the Approved List a replacement shall be established if appropriate in accordance with <b>Rule 10.5.</b></p>	
9.5.5	<p><b>9.5.5 Negotiated Procedure and Competitive Dialogue</b></p> <p>Where the ACE(LDS) and the CD-SR agree that it is appropriate, the Negotiated Procedure or the Competitive Dialogue Procedure may be used in accordance with the Public Contracts Regulations 2006</p>	<p><b>Negotiated Procedure and Competitive Dialogue</b></p> <p><u>10.6.1</u> Where a Director in consultation with CD-SR agree that it is appropriate, the Negotiated Procedure or the Competitive Dialogue Procedure may be used <u>for the invitation to tenders</u> in accordance with the <u>requirements of the PCR's.</u></p>	<p>The obligation to consult with ACE(LDS) has been removed to allow the decision regarding a negotiated or competitive dialogue process to be taken by the Director in consultation with the CD-SR. As the Gateway process will apply to any such procurement this will ensure the decision has been reviewed by ACE(LDS).</p>
10.	<p><b>10.0 GENERAL TENDER REQUIREMENTS</b></p>	<p><b><u>11.0 RECEIPT AND OPENING OF TENDERS</u></b></p>	<p>New title to clarify the Rule</p>
	<p>10.1 A written tender may only be considered if:-</p> <p>(a) it has been received electronically through the e-tendering system, or</p>	<p><u>11.1</u> A written tender may only be considered if:-</p> <p>(a) it has been received electronically through the e-tendering system, or</p>	<p>Renumbering</p>

Rule	Current Wording	Proposed Amendment	Reason
	<p>(b) it has been received in hard copy in a sealed envelope marked “Tender” and indicating the subject matter of the tender, and the identity of the tenderer cannot be ascertained from the tender envelope, and</p> <p>(c) subject to <b>Rule 10.4</b>, the tender has been returned electronically through the e-tendering system or to the ACE(LDS) (or a person designated by her) before the tender closing date.</p>	<p>(b) <u>(where permitted)</u> it has been received in hard copy in a sealed envelope marked “Tender” and indicating the subject matter of the tender, and the identity of the tenderer cannot be ascertained from the tender envelope,</p> <p>(c) <u>and subject to Rule 11.4, it has been returned in accordance with the instructions contained in the ITT</u> before the tender closing date.</p>	<p>To reflect the requirement for tenders to be submitted via the e-sourcing system as a first resort to comply with Central Government requirements re e-tendering</p> <p>To clarify the Rule</p>
10.2		Rename <u>11.2</u> .	To reflect new numbering
10.3	Tenders, whether electronic or hard copy must be opened at the same time and in the presence of the ACE(LDS) (or a person designated by her) or, where Legal and Democratic Services is undertaking the procurement, the CD-SR (or an Officer designated by him). Whoever opens the Tenders shall maintain a record of the tenders received. Such a record shall include the date and time of tender opening, the identity of the officer(s) present, the identities of tenderers and the tendered sums (where readily ascertainable). A copy of such a record shall be provided as soon as practicable to Veritau	<u>10.3</u> Tenders, whether electronic or hard copy must be opened at the same time and in the presence of the ACE(LDS) (or a person designated by her) or, where Legal and Democratic Services is undertaking the procurement, the CD-SR (or an Officer designated by him). Whoever opens the Tenders shall maintain a record of the tenders received. Such a record shall include the date and time of tender opening, the identity of the officer(s) present, the identities of tenderers and the tendered sums (where readily ascertainable). A copy of such a record shall be provided as soon as practicable to <u>the Director inviting the tenders and to Internal Audit.</u>	Wording added to ensure the tender opening schedule is sent to the relevant Director as well as Internal Audit



Rule	Current Wording	Proposed Amendment	Reason
10.4		Re-number <u>11.4</u> .	To reflect new numbering
10.5	<p><b>Risk Assessment</b></p> <p>10.5 Before a Contract is awarded after a tender exercise such steps shall be taken, in conjunction with the CD-SR, as are reasonably necessary (having regard to the subject matter, value, duration of the contract and other relevant factors) to complete a risk assessment of the potential contractor's financial stability.</p>	Rule deleted.	Moved to Rule 12.5
11.	<b>11.0 TENDER EVALUATION AND ACCEPTANCE</b>	<b><u>12.0</u> TENDER EVALUATION AND ACCEPTANCE</b>	Re-numbered
11.1	Where tenders are to be evaluated on the basis of MEA or price only the Director shall record the evaluation model to be used to score the selection and award criteria referred to in <b>Rule 9.2</b> prior to the tenders being opened. The evaluation model should not be communicated to tenderers without the approval of the CD-SR (in consultation with the ACE(LDS)). A copy of the evaluation model should be sent to Internal Audit.	<u>12.1</u> The Director shall <u>evaluate tenders using the evaluation model lodged with Internal Audit in accordance with <b>Rules 9.7, 10.1.1(v) and 10.2.1(ix)</b></u> .	Rule amended as provisions now incorporated into Rule 9.5.1
11.2	A summary of the selection and award criteria and sub criteria with their weighting should be communicated to tenderers. A copy of all evaluation models must be sent to Veritau before any documents are opened.	Rule deleted.	Rule deleted as provisions now incorporated into Rule 9.5.1
11.3	Full evaluation models, marking guidance or model answers must not be communicated to Tenderers.	Rule deleted.	Rule deleted as provisions now incorporated into Rule 9.5.1
11.4	<p>If:-</p> <p>(a) a tender other than the lowest or the MEA (as the case may be) is to be</p>	<u>12.2</u> If a tender other than the <u>MEAT or the lowest Price</u> is to be accepted the written approval of the Director <u>after</u> consultation with the CD-SR <u>shall</u> be obtained and a signed and dated record of the reasons for the action taken <u>shall</u> be	The requirement to obtain approval from the CD-SR to proceed to award where fewer than 3 tenders have been received has been removed due

Rule	Current Wording	Proposed Amendment	Reason
	<p>accepted, or</p> <p>(b) fewer than three tenders have been received</p> <p>the written approval of the Director (in consultation with the CD-SR or, if the relevant Director is the CD-SR, in consultation with the Chief Executive Officer) must be obtained before a tender is accepted and a signed and dated record kept of the reasons for the action taken; however, no such approval can be given in respect of (a) above where that contract is subject to the Public Contracts Regulations 2006 other than in exceptional circumstances agreed by the ACE(LDS).</p>	<p>made however, no such approval can be given where <u>the</u> contract is subject to PCR's other than in exceptional circumstances agreed by the ACE(LDS).</p>	<p>to being unnecessarily cumbersome. The Gateway Process and the role of the Directorate Procurement Champions will ensure this is governed satisfactorily.</p>
11.5	<p>Each Director shall maintain an electronic or written record of all successful tenderers in a form approved by the CD-SR in accordance with the Document Retention Policy.</p>	<p><u>12.3</u> Each Director shall maintain an electronic or written record of all successful tenderers in a form approved by the CD-SR in accordance with the Document Retention Policy.</p>	<p>Renumbered</p>
11.6	<p>Where a tender involves payment <b>to</b> the Council, <b>Rules 9.2 and 11.4</b> shall apply except that the word "highest" shall be substituted for "lowest" in those Rules.</p>	<p>Rule deleted.</p>	<p>Moved to Rule 12.8</p>
12.	<p><b>12.0 ALTERATIONS TO TENDERS/ QUOTATIONS AND POST TENDER NEGOTIATIONS</b></p> <p>12.1 Tenders may not be altered by Tenderers after the tender closing date except:-</p> <p>(a) where the Director is satisfied that arithmetical errors having been inadvertently made by the Tenderer, such errors can be corrected; or</p>	<p>Rule deleted.</p>	<p>Moved to Rule 12.4</p>

Rule	Current Wording	Proposed Amendment	Reason
	<p>(b) where post tender negotiation is undertaken in accordance with <b>Rule 12.2</b>; or</p> <p>(c) where post tender clarification is undertaken in accordance with <b>Rule 12.4</b>.</p>		
12.4		<p><u>If, as a result of the tender evaluation process the Director is satisfied that an arithmetical error has been made inadvertently by the tender such an error may, after consultation with the tenderer, be corrected. The Director shall record any such correction in writing.</u></p>	Some text used from Rule 12.1(a).
12.5		<p><u>Before a Contract is awarded the Director shall, in consultation with the CD-SR complete a risk assessment to ascertain the financial stability of the potential Contractor. The risk assessment shall take into account the subject matter, complexity, duration, value and any other such factors as may be deemed to be relevant. This shall be undertaken in accordance with the Gateway Process (Gateway 3).</u></p>	Moved from Rule 10.5 and amended to provide clarity and to link the financial assessment to the Gateway Process
12.6		<p><u>On completion of the evaluation of the tenders received and once all internal approvals have been obtained the Director shall write to all Participants informing them of the outcome of the tender evaluation and providing feedback on the content of their tender. Where appropriate such feedback shall be given in accordance with the PCR's.</u></p>	To include the requirement for feedback to be provided to all Participants
12.7		<p><u>For OJEU tenders the Director shall wait for a minimum of ten days from the date of issue of the letters notifying the tenderers of the result of the evaluation before completing the Contract with the successful tenderer.</u></p>	To capture the requirements of the Public Contracts Regulations 2006
12.8		<p><u>Where the tender involves payment to the Council <b>Rules 8.8</b> and <b>12.2</b> shall apply except that the word</u></p>	Moved from Rule 11.6

Rule	Current Wording	Proposed Amendment	Reason
		<u>“highest” shall be substituted for “lowest” in those Rules.</u>	
13.0		<b>13.0 POST TENDER NEGOTIATION AND CLARIFICATION</b>	
12.2-12.4	<p>Post tender negotiations may not be undertaken where the value of the contract exceeds the threshold under the Public Contracts Regulations 2006 (where an OJEU Notice is required). Where post tender negotiations are permitted, post tender negotiations with selected tenderers must be in accordance with the following conditions:-</p> <p>(a) that the Director (in consultation with the CD-SR) considers that added value may be obtained</p> <p>(b) that post tender negotiations are permitted by law</p> <p>(c) that post tender negotiations are conducted by a team of suitably experienced officers approved by the Director and trained in post tender negotiations</p> <p>(d) that a record of the negotiations is kept by the Council</p> <p>(e) that a clear record of the added value obtained by the post tender negotiations is incorporated into the Contract with the successful tenderer.</p> <p>12.3 <b>Rules 12.1 and 12.2</b> shall also apply to alterations to quotations.</p> <p>12.4 <b>Rules 12.1, 12.2 and 12.3</b> shall not operate to</p>	<p><u>13.1</u> Post tender negotiations may not be undertaken where the value of the contract exceeds the <u>limits set out in the PCR’s.</u></p> <p><u>13.2</u> Post tender negotiations with selected tenderers shall be carried out where:</p> <p><u>13.2.1</u> <u>post tender negotiations are permitted by law; and</u></p> <p><u>13.2.2</u> the Director in consultation with <u>CPG</u> considers that added value may be obtained; <u>and</u></p> <p><u>13.2.3</u> that post tender negotiations are <u>to be</u> conducted by a team of suitably experienced officers approved by the Director and <u>who have been</u> trained in post tender negotiations; <u>and</u></p> <p><u>13.2.4</u> <u>a comprehensive, written</u> record of the negotiations is kept by the Council; <u>and</u></p> <p><u>13.2.5</u> a clear record of the added value <u>to be</u> obtained <u>as a result of</u> the post tender negotiations is incorporated into the Contract with the successful tenderer.</p> <p><u>13.3</u> <b>Rules 13.1 and 12.2</b> shall not operate to prevent clarification of <u>all or part of</u> any tender to the extent permitted by law and where such</p>	To clarify and simplify the requirements

Rule	Current Wording	Proposed Amendment	Reason
	prevent clarification of any tender or quotation to the extent permitted by law and where such clarifications are sought the provisions of <b>Rules 12.2 (c) and (d)</b> shall apply except the word 'clarification' shall be substituted for the word "negotiation" in these Rules.	clarifications are sought the provisions of <b>Rules 13.2.3 and 13.2.4</b> shall apply, except that the word "clarification" shall be substituted for the word "negotiation" in these Rules.	
13.0	<b>PURCHASING CARDS</b>	<b>14.0 PURCHASING CARDS</b>	Renumbered
13.1	Where purchasing cards are issued by the Council the following provisions shall apply:-  (a) their use shall be subject to the procedures laid down by the CD-SR  (b) cards shall only be issued to, and used by, Officers nominated by a Director (in consultation with the CD-SR)  (c) for the purpose of <b>Rule 6.1</b> the payment invoice will constitute evidence in writing of the contract.	<b>14.1</b> Where purchasing cards are issued by the Council the following provisions shall apply:-  (a) their use shall be subject to the procedures laid down by the CD-SR  (b) cards shall only be issued to, and used by, Officers nominated by a Director (in consultation with the CD-SR)  (c) for the purpose of <b>Rule 5.1</b> the payment invoice will constitute evidence in writing of the contract.	Renumbered
14.0	<b>CERTIFICATION OF CONTRACTS</b>	<b>15.0 CERTIFICATION OF CONTRACTS</b>	Renumbered
14.1	The Local Government (Contracts) Act 1997 clarified the power of local authorities to enter into certain contracts, including Private Finance Initiative contracts. Where contracts need to be certified under the 1997 Act, only the following Officers are authorised to do so: the Corporate Director Children and Young People's Service, the Corporate Director Business and Environmental Services, the Corporate Director Health and Adult Services and the Corporate Director - Strategic Resources.	<b>15.1</b> The Local Government (Contracts) Act 1997 clarified the power of local authorities to enter into certain contracts, including Private Finance Initiative contracts. Where contracts need to be certified under the 1997 Act, only the following Officers are authorised to do so: the Corporate Director Children and Young People's Service, the Corporate Director Business and Environmental Services, the Corporate Director Health and Adult Services and <u>CD-SR</u> .	Renumbered and insertion of defined term
15.0	<b>EXCEPTIONS TO CONTRACT PROCEDURE RULES</b>	<b>16.0 EXCEPTIONS TO CONTRACT PROCEDURE</b>	Renumbered

Rule	Current Wording	Proposed Amendment	Reason
		<b>RULES 8, 9 AND 10</b>	
15.1	<p>A Director does not need to invite quotations or tenders in the following circumstances:-</p> <ul style="list-style-type: none"> <li>(a) purchases via framework agreements which have been established by other public sector bodies or consortia (including, but not limited to YPO) and where such framework agreements are lawfully accessible to the Council, or</li> <li>(b) purchases at public auctions, or</li> <li>(c) the purchase of supplies, works or services which are of such a specialised nature as to be obtainable from one contractor only, except where the value of the contract exceeds the relevant threshold of the Public Contracts Regulations 2006; or</li> <li>(d) the instruction of Counsel by the ACE(LDS), or</li> <li>(e) repairs to or the supply of parts for existing proprietary machinery or plant except where the value of the contract exceeds the relevant threshold of the Public Contracts Regulations 2006, or</li> <li>(f) social care contracts which are classifiable as 'Part B Services' under the Public Contracts Regulations 2006 where:-</li> </ul>	<p><u>16.1</u> A Director does not need to invite quotations or tenders in the following circumstances:-</p> <ul style="list-style-type: none"> <li>(a) purchases via framework agreements which have been established by other public sector bodies or consortia (including, but not limited to YPO) and where such framework agreements are lawfully accessible to the Council, <u>except where the requirements of the individual framework require a further competition to be conducted or</u></li> <li>(b) purchases at public auctions, or</li> <li>(c) the purchase of supplies, works or services which are of such a specialised nature as to be obtainable from one contractor only, except where the value of the contract exceeds the relevant <u>EU Threshold</u>; or</li> <li>(d) the instructions of Counsel by the ACE(LDS); or</li> <li>(e) repairs to or the supply of parts for existing proprietary machinery or plant except where the value of the contract exceeds the relevant <u>EU Threshold</u>; or</li> <li>(f) social care contracts <u>with a value below the EU Threshold</u> where:- <ul style="list-style-type: none"> <li>(i) <u>the service is currently supplied</u></li> </ul> </li> </ul>	<p>Wording added to clarify circumstances in which there is not an exception to the CPR's re Framework Agreements</p> <p>Defined term inserted</p> <p>Defined term inserted</p> <p>New set of Rules inserted at (f) to capture those social care contracts outside the Public</p>

Rule	Current Wording	Proposed Amendment	Reason
	<p>(i) the service is currently supplied by a contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Service and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, or</p> <p>(ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the contractor and where the Corporate Director Health and Adult Services and the Corporate Director Children and Young People's Service considers it inappropriate for quotations or tenders to be invited, or</p> <p>(iii) where the Corporate Director Health and Adult Services and the Corporate Director Children and Young People's Service is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders</p> <p>(g) contracts where the ACE(LDS) and the CD-SR agree that for reasons of</p>	<p><u>by a Contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Service, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, or</u></p> <p><u>(ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Contractor and where the Corporate Director Health and Adult Services and the Corporate Director Children and Young People's Service considers it inappropriate for quotations or tenders to be invited, or</u></p> <p><u>(iii) where the Corporate Director Health and Adult Services and the Corporate Director Children and Young People's Service is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders in which case consideration shall be given to the duration of that service</u></p> <p>(g) social care contracts which are</p>	<p>Contracts Regulations</p> <p>Previous (f) renumbered as (g).</p>

Rule	Current Wording	Proposed Amendment	Reason
	<p>extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining quotations or tenders cannot be met. A written record shall be signed and dated by the Director, whenever this rule applies.</p>	<p>classifiable as 'Part B Services' under the <u>PCR's</u> where:-</p> <p>(i) the service is currently supplied by a contractor to the satisfaction of the Corporate Director Health and Adult Services or the Corporate Director Children and Young People's Service, <u>is considered to be offering value for money</u> and where the foreseeable disruption to service users cannot justify the invitation of further quotations or tenders, or</p> <p>(ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the contractor and where the Corporate Director Health and Adult Services <u>or</u> the Corporate Director Children and Young People's Service considers it inappropriate for quotations or tenders to be invited, or</p> <p>(iii) where the Corporate Director Health and Adult Services <u>or</u> the Corporate Director Children and Young People's Service is satisfied that the urgency of the need for the service prevents the invitation of quotations or tenders <u>in which case consideration shall be given to</u></p>	<p>Defined term inserted</p> <p>Additional requirement that service should be offering value for money inserted to ensure value for money is always been sought in social care contracts</p> <p>Requirement to consider the duration of the Contract added where an exception is sought for reasons of urgency. In this way urgent Contracts may be entered into for a short term whilst a longer term option is sought without being an exception to the Rules</p>



Rule	Current Wording	Proposed Amendment	Reason
		<p style="text-align: center;"><u>the duration of that service.</u></p> <p>(h) <u>Contracts where the Director with the agreement of the ACE(LDS) and the CD-SR agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining quotations or tenders cannot be met. A written record shall be signed and dated by the Director, whenever this rule applies.</u></p>	<p>Reworded to clarify CD-SR decision with ACE(LDS) agreement</p>
16.2		<p><u>Where any of the exceptions set out in (a) to (h) above are applied a written record of the decision and justification shall be signed and kept as part of the Gateway Process.</u></p>	<p>Inserted to enable the exception to apply without specific reference to the ACE(LDS) but requiring the decision to be recorded in the Gateway report</p>
15.3	<p>(a) Specific exceptions to Contract Procedure Rules are permitted in such other circumstances as the CD-SR and the ACE(LDS) may agree.</p> <p>(b) Requests for waiver shall be made using a form prescribed by the ACE(LDS) and the CD-SR which shall specify the reasons for the request and include a completed risk assessment of the proposal.</p> <p>(c) The ACE(LDS) shall maintain a register of all requests made under 15.2(b) and the responses given to them.</p>	<p><b>16.3 <u>Waivers</u></b></p> <p>(a) Specific exceptions to <u>these</u> Rules are permitted in such other circumstances as the CD-SR and the ACE(LDS) may agree.</p> <p>(b) Requests for <u>waivers</u> shall be made using a form prescribed by the ACE(LDS) and the CD-SR which shall specify the reasons for the request and include a completed risk assessment of the proposal.</p> <p>(c) The ACE(LDS) shall maintain a register of all requests made under 15.2(b) and the responses given to them.</p>	<p>Clarifying the provisions regarding the process to obtain waivers</p>

Rule	Current Wording	Proposed Amendment	Reason
16.0	<b>COMPLIANCE, CONTRACT REGISTER AND FORWARD PROCUREMENT PLANS</b>	<b>17.0 COMPLIANCE, CONTRACT REGISTER AND FORWARD PROCUREMENT PLANS</b>	Renumbered
16.1		Renumber <u>17.1</u> .	Renumbered
16.2	Each Director shall take all such steps as are reasonably necessary to ensure that Officers within their Directorate are aware of and comply with these Rules, the <i>Procurement Manual</i> and the <i>Finance Manual</i> referred to in <b>Rule 2.5</b> .	<u>17.2</u> Each Director, <u>CPG</u> and/or the <u>DPC's</u> shall take all such steps as are reasonably necessary to ensure that Officers within their Directorate are aware of and comply with these Rules, the <i>Procurement Manual</i> and the <i>Finance Manual</i> referred to in <b>Rule 2.5</b> .	To allow CPG and the DPC's to take responsibility for ensuring compliance with the Rules
16.3		Renumber <u>17.3</u> .	Renumbered
16.4	Each Director shall nominate a representative to act as a key contact point in relation to procurement matters for the Directorate; such representatives shall be termed " <b>Procurement Champions</b> " in this Rule.	<u>17.4</u> Each Director shall nominate a representative to act as a key contact point in relation to procurement matters for the Directorate; such representatives shall be termed " <b>Directorate Procurement Champions</b> ".	To reflect the change in title
16.5	Procurement Champions are responsible for the production of a Forward Procurement Plan (' <b>FPP</b> ') which will be completed in such format as the CD-SR shall require and which will include the following details:  (a) contracts for works, supplies and services worth £10,000 or more which the Directorate intends to award in the next financial year  (b) in respect of each contract to be awarded:  (i) the service unit and Responsible Officer	<u>17.5</u> <u>Directorate</u> Procurement Champions are responsible for the production of <u>FPP</u> which will be completed in such format as <u>CPG</u> shall require.	To insert defined terms and to enable flexibility in the format of the FPP

Rule	Current Wording	Proposed Amendment	Reason
	<ul style="list-style-type: none"> <li>(ii) the subject matter of the contract</li> <li>(iii) the date the procurement process is expected to start</li> <li>(iv) the date the contract is expected to start</li> <li>(v) the duration of the contract</li> <li>(vi) the contract's annual value</li> <li>(vii) the procurement methodology to be adopted.</li> </ul>		
16.6	The Procurement Champions shall present their Directorate FPP to the Corporate Procurement Members' Working Group annually at such time as the CD-SR shall require (which will normally be at the commencement of the new financial year). The updated FPP shall be presented to Directorate management Teams quarterly for approval throughout the remainder of the year.	<u>17.6</u> Directorate <u>Procurement Champions shall each present an updated FPP to their respective</u> <u>directorate management Teams</u> quarterly for approval throughout the year.	Rule split into two for clarity.
17.7		<u>17.7</u> <u>An annual report on procurement matters, such report to include an annual procurement plan and actions arising from the annual procurement plan, will be presented to a meeting of the Corporate and Partnership Overview and Scrutiny Committee.</u>	Rule split into two for clarity Replacement of reference to Corporate Procurement Members' Working Group with Corporate and Partnership Overview and Scrutiny Committee
16.7	The Council has established, as part of its Corporate Procurement Strategy, a Contract Register which forms	<u>17.8</u> The Council <u>maintains</u> a Contract Register the	To reflect the change from establishment of the Contracts

Rule	Current Wording	Proposed Amendment	Reason
	part of the e-tendering system ( <b>‘the Register’</b> ) the purpose of which is to:  (a) record key details of all contracts with an aggregate value of £10,000 or more  (b) identify a contract reference number.	purpose of which is to:  (a) record key details of all contracts with an aggregate value of £10,000 or more; <u>and</u>  (b) identify a contract reference number.	Register to maintenance of it
16.7.1	Procurement Champions shall ensure that:-  (a) all relevant contracts are entered onto the Register and the appropriate contract number recorded  (b) the Register is maintained by entering new contracts onto it and removing expired contracts from it in line with the Council's Records Retention and Destruction Schedule.	<u>17.9 Directorate</u> Procurement Champions shall ensure that:-  (a) all relevant contracts <u>(including those Contracts to which Rule 16 applies)</u> are entered onto the <u>Contract</u> Register and the appropriate contract number recorded  (b) the Register is maintained by entering new contracts onto it and removing expired contracts from it in line with the Council's Records Retention and Destruction Schedule.	To reflect the defined term  To reflect the requirement for all Contracts to be entered on to the Contracts Register, including those which have been entered into on reliance upon an exception to the CPR's
16.8	Following the award of a contract, the Procurement Champions shall ensure the completed contracts e-form is completed and submitted on-line.	Rule deleted.	No longer applicable
17.0	<b>REVIEW OF PROCUREMENT PROJECTS AND CONTACT MONITORING</b>	Rule 17.1 deleted.  Rule 17.2 moved to 19.1	To order the Rules in a more logical sequence
18.	<b>NOTIFICATION OF SECTION 151 OFFICER AND MONITORING OFFICER</b>	<b><u>GATEWAY PROCESS REPORTS INCLUDING NOTIFICATION OF SECTION 151 OFFICER AND MONITORING OFFICER</u></b>	To reflect use of Gateway Process

Rule	Current Wording	Proposed Amendment	Reason
18.1	<p>When a procurement is being considered which is expected to exceed the financial value thresholds specified in <b>Rule 18.2</b> then the Responsible Officer must complete the necessary Gateway report for consideration by the responsible Corporate Director, the Assistant Director with responsibility for finance within that Directorate, and the ACE(LDS) or by a Legal and Democratic Services Officer authorised by her. No procurement should commence before the Gateway report is approved. The report shall include the estimated “whole life” financial value of the contract, the procurement methodology and any other relevant factors including, but without limitations, any TUPE implications. The Assistant Director with responsibility for finance will enter details on a register of procurements approved under this Rule which will be available to the CD-SR and the ACE(LDS).</p>	<p>When a procurement is being considered which is expected to exceed the financial value thresholds specified in <b>Rule 18.2</b> then the Responsible Officer must complete the necessary Gateway <u>Process</u> report for consideration by the <del>responsible Corporate</del> <u>relevant Directorate Management Team or the relevant</u> Director, the Assistant Director with responsibility for finance within that Directorate, and the <u>DPC ACE(LDS)</u> or by a <del>LDSO</del> authorised by her. No procurement should commence before the Gateway <u>Process</u> report is approved. The report shall include the estimated “whole life” financial value of the contract, the procurement methodology and any other relevant factors including, but without limitations, any TUPE implications. The Assistant Director with responsibility for finance will enter details on a register of procurements approved under this Rule which will be <u>available</u> to the CD-SR and the ACE(LDS).</p>	<p>To <u>update the Gateway Process requirements,</u> insert defined terms and correct spelling mistake</p>
18.2	<p>The whole contract financial value thresholds for the purposes of <b>Rule 18.1</b> are:</p> <ul style="list-style-type: none"> <li>(a) works contracts - £1m</li> <li>(b) services contracts (except in respect of social care and the appointment of Counsel) - £150,000</li> <li>(c) social care contracts - £500,000</li> <li>(d) supply contracts (except in respect of equipment and other assets including vehicles and hardware) - £1m</li> <li>(e) equipment and other assets including</li> </ul>	<p>The whole contract financial value thresholds for the purposes of <b>Rule 18.1</b> are:</p> <ul style="list-style-type: none"> <li>(a) works contracts - <del>£1m</del> <u>£100,000</u></li> <li>(b) services contracts - <del>£150,000</del> <u>£100,000EU Threshold</u></li> </ul>	<p>To simplify the financial limits at which permission to proceed with the Contract must be sought</p>

Rule	Current Wording	Proposed Amendment	Reason
	vehicles and hardware - £100,000.		
<a href="#">18.3</a>		<u>When a procurement is being considered which is expected to exceed the financial value thresholds specified in <b>Rule 18.3</b> then the Responsible Officer must ensure the necessary Gateway Process report prepared in accordance with Rule 18.1 is also considered by the ACE(LDS) or by a LDSO authorised by her. No procurement should commence before the Gateway Process report is approved.</u>	
<a href="#">18.4</a>		<u>The whole Contract financial value thresholds for the purposes of <b>Rule 18.3</b> are:</u>  <u>(a) works Contracts - £1m</u>  <u>(b) services Contracts – EU Threshold</u>	
19.		<b><u>19.0 CONTRACT MONITORING</u></b>  <b><u>19.1</u></b> <u>The Responsible Officer shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Responsible Officer shall maintain adequate records of Contract performance and details of review meetings with the Contractor. Such records and details shall be made available to Internal Audit whenever required and shall be recorded in any relevant Gateway Process report (Gateway 4). Such records shall also be used as the basis for any permitted extension to the Contract.</u>  <b><u>Contract Variation</u></b>	Moved from 17.2

Rule	Current Wording	Proposed Amendment	Reason
		<p><u>19.2</u> Contracts may be varied in accordance with the terms of that Contract. Any proposed variations which have the effect of materially changing the Contract must be approved by the ACE(LDS), whether or not they are effected by amending the Contract itself or by correspondence.</p>	<p>To introduce the requirement to obtain approval from ACE(LDS) to certain variations to Contracts to ensure the Public Contracts Regulations are complied with</p>
19.	<b>TRAINING FOR PROCUREMENT</b>	<b><u>20.0</u> TRAINING FOR PROCUREMENT</b>	Renumbered
19.1	Any officer involved in procurement activities should have received a level of formal training commensurate with the nature of the procurement activity being undertaken.	<p><u>20.1</u> Any officer involved in procurement activities <u>shall</u> have received a level of formal training commensurate with the nature of the procurement activity being undertaken.</p>	To reflect the requirement for training to have been undertaken
20.	<b>DECLARATION OF INTERESTS</b>	Renumber Rule <u>21.0</u> .	Renumbered
20.1		Renumber Rule <u>21.1</u> .	Renumbered