

# North Yorkshire Council

## Children & Young Peoples Services

### Corporate Director's meeting with Executive Members

9<sup>th</sup> May 2023

## NORTH YORKSHIRE COUNCIL LOCAL MANAGEMENT OF SCHOOLS (LMS) PROCUREMENT AND CONTRACT PROCEDURE RULES

### Report of the Corporate Director – Strategic Resources

#### 1.0 Purpose of Report

- 1.1 To present proposed changes to North Yorkshire Council's Local Management of Schools (LMS) Procurement and Contract Procedure Rules to the CYPS Executive Members for their consideration and approval.

#### 2.0 Background

- 2.1 North Yorkshire County Council's Procurement and Contract Procedure Rules (PCPR) governed how the Council procures goods, works and services and aligns to the Public Contracts Regulations 2015. With the Local Government Reorganisation concluding at the end of March 2023, North Yorkshire County Council produced PCPRs for The North Yorkshire Council (NYC) which were approved by full Council on 24<sup>th</sup> February 2023. These changes, where relevant, have been updated in the LMS Rules.
- 2.2 The latest version of the NYC Procurement and Contract Procedure Rules can be found at the following link in the NYC Constitution:  
[Document NYC Constitution - Version 1 - April 2023 | North Yorkshire Council](#)
- 2.3 Furthermore, a Procurement Policy Note (PPN) has been published in January 2023 updating the legal and policy requirements to publish procurement information on Contracts Finder and therefore the LMS Rules have been updated to reflect these changes.

#### 3.0 Summary of Revisions

- 3.1 The LMS Rules reference North Yorkshire County Council and particular roles within the Council which will need to be revised as of April 2023 due to the Local Government Reorganisation.
- 3.2 The contract limits for publication of procurement information onto Contracts Finder has been amended from £25,000 to £30,000 (inclusive of VAT).
- 3.3 The revised LMS Procurement and Contract Procedure Rules are detailed in Appendix 1.

#### 4.0 Funding/Financial Implications

- 4.1 There are no funding issues and the financial implications are that now further action is required at £30k rather than £25k.

## **5.0 Legal Implications**

- 5.1 There are no legal implications arising from the revised LMS Procurement and Contract Procedure Rules. The proposed amendments align with the Procurement Policy Note (PPN01/23) and the Public Contracts Regulations 2015.

### **13.0 Recommendation(s)**

- i) To consider and approve the revised LMS Procurement and Contract Procedure Rules.

Report Author – Patricia Murphy, Supply Chain Governance and Development Officer, Procurement and Contract Management

Presenter of Report – Patricia Murphy, Supply Chain Governance and Development Officer, Procurement and Contract Management

Appendices:

- Appendix 1 - LMS Procurement and Contract Rules (2023.24) TRACK CHANGES

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Part 3 – LMS Procurement and Contract Procedure Rules

The LMS Scheme specifies that Schools are required to abide by these Procurement and Contract Procedure Rules on purchasing, tendering and other contracting matters, including the requirement to assess in addition, where relevant, the health and safety and competence of Contractors taking account of the Council's policies and procedures on these matters.

These Rules are made by ~~the North Yorkshire Council~~ on the advice of the ~~S151 Officer CD-SR~~ in consultation with the ~~Monitoring Officer ACE(LDS)~~ under the LMS Scheme. ~~The LMS Financial procedure Rules shall be applied in conjunction with these Rules.~~

1. INTRODUCTION

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

**Above Threshold ~~Tender~~Process** means the procurement process to be followed where the estimated whole life value of a Contract exceeds the relevant WTO GPA Threshold

~~Above Threshold Tender~~ means a tender submitted as part of an Above Threshold Process

~~ACE(LDS)~~ means ~~Assistant Chief Executive (Legal and Democratic Services)~~

**Best Value Form** means the form to be completed to capture the rationale for not seeking bids in accordance with **Rule 8.34**

~~CD-SR~~ means ~~the Corporate Director Strategic Resources~~

**CM** means the Contract Manager who is responsible for the contract management role on behalf of the ~~Council School~~

**Concession** means as defined in Regulation 3(4) of the Concession Contracts Regulations 2016

~~Constitution~~ means ~~the Council's Constitution of which these Rules form part.~~

**Contract** means any agreement, excluding a Grant, made between the School 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 **Rule 2.2**

**Contracts Finder** means the web-based portal as described in Chapters 7 & 8 of the Public Contracts Regulations 2015

**Contract Management Practitioners Group** means the Council's practitioner group responsible for improving contract management standards

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Part 3 – LMS Procurement and Contract Procedure Rules

<b>Contract Register</b>	means the register of Contracts maintained by the School as set out in <b>Rule 17.8</b>	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Contractor</b>	means a person or entity with whom the School has a contract	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Council</b>	means North Yorkshire <del>County</del> Council	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Electronic Signatures</b>	means an advanced electronic signature which is: <ul style="list-style-type: none"><li>(i) uniquely linked to the signatory; and</li><li>(ii) capable of identifying the signatory; and</li><li>(iii) created using means that the signatory can maintain under his/her sole control; and</li><li>(iv) linked to the data to which it relates in such a manner that any subsequent change of the data is detectable.</li></ul>	
<b>E-Sourcing system</b>	means the <del>Council's</del> <del>School's</del> chosen E-sourcing system ( <del>currently YORtender</del> ) or an approved alternative	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Framework Agreement</b>	means an agreement with one or more contracting authorities and one or more economic operator which establishes an arrangement for: <ul style="list-style-type: none"><li>(i) multiple orders to be placed with one Contractor (a single supplier framework), or</li><li>(ii) a framework of multiple Contractors to engage in further competitions or direct award (a multiple supplier framework)</li></ul>	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Governing Body</b>	means the Governing Body of a School.	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Grant</b>	means a sum of money awarded <del>by the</del> <del>to the</del> <del>Council</del> <del>School</del> <del>to third parties in anticipation of it being applied for an agreed purpose</del>	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Headteacher</b>	means the Headteacher of a School.	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Internal Audit</b>	means the <del>Council's</del> <del>School's</del> appointed internal auditors ( <del>currently Veritau</del> )	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>ITB</b>	means an Invitation to Bid	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>ITQ</b>	means an Invitation to Quote	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>ITT</b>	means an Invitation to Tender	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm

Part 3 – LMS Procurement and Contract Procedure Rules

<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 School at the end of the contract period	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>LDSO</b>	means a Legal and Democratic Services Officer	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>MEAT</b>	means the Most Economically Advantageous Tender	
<b>Member</b>	means an <u>elected</u> member of <u>the North Yorkshire Council</u> or co-opted member on a Council committee	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Monitoring Officer</b>	means <u>North Yorkshire Council's appointed Monitoring Officer</u> ,	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm Formatted: Font: Not Bold
<b>Officer</b>	means a School employee or other authorised agent	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Participant</b>	means a person or entity participating in a procurement process, who has expressed an interest in tendering for a Contract or who has tendered for a Contract	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>PSBO</b>	means Public Sector Buying Organisation	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>PCR</b>	means the Public Contracts Regulations 2015	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Person</b>	means any individual, partnership, company, trust, other local authority, Government department or agency	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Property Contract</b>	means a contract which creates an estate or interest in land or buildings	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Responsible Officer</b>	means the Officer who is responsible for the procurement and/or management of a Contract	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Rules</b>	means these LMS Procurement and Contract Procedure Rules	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Scheme of Delegation</b>	means a record of all duties and responsibilities as delegated under these Rules which is to be maintained by each School	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>S151 Officer</b>	means <u>North Yorkshire Council's appointed S151 Officer</u> ,	Formatted: Font: Not Bold
<b>Services or Supplies</b>	means as defined in Regulation 2 of the PCRs	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>Social and Other Specific Services</b>	means those services defined as such in Schedule 3 of the PCRs	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>SQ</b>	means the Selection Questionnaire	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm
<b>WTO GPA Threshold</b>	means the current threshold above which the PCR's apply, currently £213,477.00 ( <u>Incl. inclusive of VAT</u> ) for	Formatted: Indent: Left: 1.27 cm, Hanging: 4.98 cm Formatted: Font: 11 pt Formatted: Font: 11 pt

Part 3 – LMS Procurement and Contract Procedure Rules

services and supplies £663,540.00 ~~(Incl. VAT) inclusive of VAT~~ for social and other specific services and £5,336,937.00 for works ~~(Incl. VAT) inclusive of VAT~~

**Waiver Request Form** means the prescribed form to be completed when requesting a waiver in accordance with **Rule 16.45**

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**Works** means as defined in Regulation 2 of the PCRs

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1.2 These Rules form part of the overall control framework within which Schools operate. They aim to facilitate sound, innovative service delivery by setting out best practice for the administration of all procurement and contract management matters, ensuring a high quality of procurement and contract management information, robust procurement and contract management and enabling good decision making. -They should not be viewed as a barrier to executive action and are constantly kept under review to ensure that they remain relevant to the ~~day to day~~day-to-day activities of Schools, and contribute to the delivery of value for money.

1.3 References in these Rules to:-

- (a) any legislation (e.g. Act, Statutory Instrument, WTO requirement) include a reference to any amendment or re-enactment of such legislation;
- (b) the value of any Contract or Grant are to the total estimated ~~aggregate gross~~ value payable (including VAT where applicable) over the full period of the Contract or Grant including any options or extensions to the Contract or Grant ~~without any deduction for income due to the Contractor or the School;~~
- ~~(c) the singular include the plural and vice versa;~~
- ~~(d) the masculine include the feminine and vice versa;~~
- ~~(e)~~ (ec) the ~~CD-SR~~Headteacher, S151 Officer and the ~~ACE(LDS)~~Monitoring Officer shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules.

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## 2. GENERAL

2.1 These Rules are made by ~~the~~North Yorkshire Council on the advice of the ~~CD-SRS151~~Officer (in consultation with the ~~MACE(LDS)~~onitoring Officer) under the LMS Scheme. The Council recognises the complexity of some of these Rules and Schools are therefore encouraged to seek the support available from the Procurement and Contract Management Service; ~~telephone number~~ (01609-533450) ~~or email~~ procurement@northyorks.gov.uk.

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2.2 These Rules apply to all Grants and Contracts for Works, Supplies, Services or Social and Other Specific Services but do not apply to:-

- (a) contracts of employment;
- (b) property contracts (which are covered by the Property Procedure Rules); and

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(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 ~~CD-SRS151 Officer~~ (in consultation with the ~~ACE(LDS)Monitoring Officer~~) shall regularly review the application and effect of these Rules and shall propose such updated Rules to the Executive Members for Children & Young People as the ~~CD-SRS151 Officer~~ may consider appropriate. ~~The S151 Officer CD-SR~~ welcomes feedback on the operation of these Rules to ensure that they both remain effective and relevant to the ~~day-to-day~~day-to-day operational activities of Schools.

2.4 NOT USED-

2.5 NOT USED

2.6 NOT USED

2.7 The Headteacher shall ensure that all documentation relating to Contracts, Grants and procurement processes is retained in accordance with the School's Records Retention and Destruction Schedule.

2.8 Where the School 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 they were an Officer of the School.

2.9 Wherever appropriate procurement shall be undertaken using the standard documents ~~contained in the Procurement Manual~~ applying to SQ's, ITT's or ITBs. ~~Wherever alternative documents are to be used they must be approved by the Headteacher.~~

2.10 NOT USED

2.11 Where the School is procuring in partnership with another contracting authority who are the lead procurer, the School will follow the lead procurers Procurement and Contract Procedure Rules or equivalent.

2.12 Where the total Grant or Contract value ~~for procurement~~ is within the values in the first column of **Tables 1-4**, below, the award procedure in the second column must be followed.

2.13 Where a proposed procurement includes two or more types of provision (i.e. Goods, Services or Works) the value shall be based on the provision that characterises the main subject of the Contract in question.

2.14 NOT USED

Table 1: Goods and Services (excluding Social & Other Specific Services)

Total Contract Value (including VAT)	Award Procedure	Transparency Procedure	Signature/Sealing Contract
£0 –up to £2030,833-000 exclusive of VAT	Quotes should be invited or the Best Value Form process followed in accordance with <b>Rule 8</b> .  Does not need to be advertised using the E-Sourcing system or Contracts Finder.	The Responsible Officer will notify the Headteacher of any Contract awarded <del>below</del> <u>above</u> £520,833000 (exclusive of VAT) <u>to enable the contract to be published on the Contract Register.</u>	<u>One signature:</u> The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).
£20,834 – £25,000 exclusive of VAT	<del>Quotes should be invited or the Best Value Form process followed in accordance with Rule 8.</del>  <u>These must be published to Contracts Finder.</u>	<del>The Responsible Officer will notify the Headteacher of any Contract awarded between £20,834 – £25,000 exclusive of VAT.</del>  <u>Contracts must be published on the Contracts Register.</u>	<del>One signature</del> <del>The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).</del>
£2530,000-4 exclusive of VAT up to WTO GPA Threshold (currently £213,477.00; inclusive of VAT)	Bids must be invited in accordance with <b>Rule 9</b> .  These must be advertised using the E-Sourcing system and <del>published to</del> <u>Contracts Finder.</u>	<del>Contracts details</del> must be published on the Contracts Register <u>and on Contracts Finder.</u>	<u>One signature:</u> The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).
Above WTO GPA Threshold (currently £213,477.00; inclusive of VAT)	Follow the appropriate procedure as set out in <b>Rules 11 and 12</b> .  <u>The opportunity must be advertised on the Find a Tender Service and Contracts Finder.</u>	Contracts <u>details</u> must be published on the Contracts Register. <u>Find a Tender Service and Contracts Finder.</u>	<u>Two signatures:</u> The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf). <b>AND</b> The <u>ACE(LDS)Monitoring Officer</u> (or by an Officer authorised by the <u>Monitoring Officer ACE (LDS)</u> to sign on his

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Total Contract Value <u>(including VAT)</u>	Award Procedure	Transparency Procedure	Signature/Sealing Contract
			behalf, as defined in the Scheme of Delegation).  <u>Sealing (where appropriate):</u> <u>Monitoring Officer ACE(LDS)</u> (or by an Officer authorised by the <u>Monitoring Officer ACE(LDS)</u> to sign on his behalf, as defined in the Scheme of Delegation) in accordance with <b>Rule 6</b> .

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Table 2: Works & Concessions

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
£0 <del>–up to £2030,833</del> <del>000</del> <del>exclusive of VAT</del>	Quotes should be invited or the Best Value Form process followed in accordance with <b>Rule 8</b> .  Does not need to be advertised using the E-Sourcing system or Contracts Finder	<del>The Responsible Officer will notify the Headteacher of any Contract awarded above £5,000 (exclusive of VAT) to enable the contract to be published on the Contract Register.</del> The Responsible Officer will notify the Headteacher of any Contract awarded below £20,833 exclusive of VAT.  Contracts must be published on the Contracts Register.	<del>One signature:</del> The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).
£20,834 – £25,000 – <del>exclusive of VAT</del>	<del>Quotes should be invited or the Best Value Form process followed in accordance with Rule 8.</del> These must be published to Contracts Finder.	<del>The Responsible Officer will notify the Headteacher of any Contract awarded between £20,834 – £25,000 exclusive of VAT.</del>  <del>Contracts must be published on the Contracts Register.</del>	<del>One signature</del> <del>The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).</del>

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Part 3 – LMS Procurement and Contract Procedure Rules

Total Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
£2530,0040 <del>exclusive of VAT</del> up to <£1,000,000 <del>exclusive of VAT</del>	Bids must be invited in accordance with <b>Rule 9</b> .  These must be advertised using the E-Sourcing system and published to Contracts Finder.	Contract <del>details</del> must be published on the Contracts Register <u>and on Contracts Finder</u> .	<u>One signature:</u> The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).
£1,000,000 <del>exclusive of VAT</del> up to WTO GPA Procurement Threshold (currently £5,336,937 <del>inclusive of VAT for Works</del> )	Bids must be invited in accordance with <b>Rule 9</b> .  These must be advertised using the E-Sourcing system and <del>published to</del> Contracts Finder.  For Contracts with a value of £1,000,000 <del>exclusive of VAT</del> or greater approval must be sought.	Contracts <del>details</del> must be published on the Contracts Register <u>and on Contracts Finder</u> .	<u>Sealing:</u> Contracts with a value in excess of £1,000,000 <del>exclusive of VAT</del> must be sealed by <del>ACE(LDS)</del> the Monitoring Officer (or by an Officer authorised by the <u>Monitoring Officer ACE (LDS)</u> to sign on his behalf, as defined in the Scheme of Delegation) in accordance with <b>Rule 6</b> .
Above WTO GPA Threshold (currently £5,336,937 <del>inclusive of VAT for Works</del> )	Follow the appropriate procedure as set out in <b>Rules 11 and 12</b> .  <u>The opportunity must be advertised on the E-Sourcing system. Find a Tender Service and Contracts Finder.</u>	Contracts must be published on the Contracts Register, <u>Find a Tender Service and Contracts Finder.</u>	<u>Sealing:</u> Contracts must be sealed by <del>ACE(LDS)</del> the Monitoring Officer (or by an Officer authorised by the <u>Monitoring Officer ACE (LDS)</u> to sign on his behalf, as defined in the Scheme of Delegation) in accordance with <b>Rule 6</b> .

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Table 3: Social & Other Specific Services

Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
£0 <del>up to</del> <del>£230,833-000</del>	Quotes should be invited or the Best	<u>The Responsible Officer will notify the</u>	<u>One signature:</u>

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Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
<del>exclusive of VAT</del>	Value Form process followed in accordance with <b>Rule 8</b> . Does not need to be advertised using the E-Sourcing system or Contracts Finder	<del>Headteacher of any Contract awarded above £5,000 (exclusive of VAT) to enable the contract to be published on the Contract Register. The Responsible Officer will notify the Headteacher of any Contract awarded below £20,833 exclusive of VAT.</del>	The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).
<del>£20,834 – £25,000 – exclusive of VAT</del>	<del>Quotes should be invited or the Best Value Form process followed in accordance with Rule 8. These must be published to Contracts Finder.</del>	<del>The Responsible Officer will notify the Headteacher of any Contract awarded between £20,834 – £25,000 exclusive of VAT. Contracts must be published on the Contracts Register.</del>	<del>One signature</del> The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).
<del>£2530,0040 up to WTO GPA Threshold (currently £663,540 inclusive of VAT)</del>	Bids must be invited in accordance with <b>Rule 9</b> . These must be advertised using the E-Sourcing system and <del>published to</del> Contracts Finder.	Contracts must be published on the Contracts Register <del>and on Contracts Finder.</del>	<del>One signature:</del> <del>One signature</del> The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).
Above WTO GPA Threshold (currently £663,540 <del>inclusive of VAT</del> )	Follow the appropriate procedure as set out in <b>Rules 11 and 12</b> .  <u>The opportunity must be advertised on the Find a Tender Service and Contracts Finder.</u>	Contracts must be published on the Contracts Register. <u>Find a Tender Service and Contracts Finder.</u>	<u>Two signatures:</u> The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf, as defined in the Scheme of Delegation). <b>AND</b> The <u>Monitoring Officer ACE (LDS)</u> (or by an Officer authorised by the <u>Monitoring Officer ACE (LDS)</u> to sign on

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Contract Value	Award Procedure	Transparency Procedure	Signature/Sealing Contract
			<p>his behalf, as defined in the Scheme of Delegation).</p> <p>Sealing (where <u>appropriate</u>), <del>ACE(LDS)</del> <u>Monitoring Officer</u> (or by an Officer authorised by the <del>Monitoring Officer</del> <u>ACE (LDS)</u> to sign on his behalf, as defined in the Scheme of Delegation) in accordance with <b>Rule 6</b>.</p>

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Table 4: -Grants

Total Contract Value	Award Procedure	Signature/Sealing Contracts
Up to £175,000 over three years Any Value	A competitive application process should be completed in accordance with <b>Rule 22</b> .  Competitive applications do not need to be advertised using the E-Sourcing system or Contracts Finder. If competitive applications are not obtained the Best Value Form must be completed. Where the value exceeds the WTO GPA threshold greater approval must be sought.	One signature The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf). One signature The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).
Above £175,000 – relevant WTO GPA Threshold	A competitive application process should be completed in accordance with <b>Rule 22</b> . This should be advertised using the E-Sourcing system. The use of Contracts Finder is not mandatory.	One signature The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf).
WTO GPA Threshold	A competitive process must be completed. The opportunity must be advertised using the E-Sourcing system. The use of Contracts Finder is not mandatory.	Two signatures: The Headteacher (or by an Officer authorised by the Headteacher to sign on the Headteacher's behalf). <b>AND</b> The ACE(LDS) (or by an Officer authorised by the ACE(LDS) to sign on his behalf, as defined in the Scheme of Delegation).  Sealing (where appropriate) ACE(LDS) (or by an Officer authorised by the ACE(LDS) to sign on his behalf, as defined in the Scheme of Delegation) in accordance with <b>Rule 6</b> .

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**3. COMPLIANCE WITH LEGISLATION AND STANDARDS**

3.1 Every Contract and Grant shall comply with all relevant applicable legislation and government guidance including:-

- (a) World Trade Organisation's Agreement on Government Procurement
- (b) UK Law

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~~(c) Acts of Parliament~~

~~(d) Statutory Instruments including, but without limitation, the Public Contracts Regulations 2015.~~

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) UK Standards~~

~~(b) British Standards implementing international standards~~

~~(c) British Standards~~

3.3 In consultation with the ~~ACE(LDS)Monitoring Officer~~, Headteachers shall ensure that the School 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 School of Works, Supplies or Services Headteachers shall ensure that no Contract shall be entered into which is ultra vires.

3.4 In respect of grounds and buildings the School shall at all times:-

~~a) Follow the guidance issued by the Property Service and any other guidance from the Council on the management of risk and health and safety and~~  
~~(a) security matters;~~

~~b) Act on the instructions of the Council as "landlord" (this does not apply to~~  
~~(b) Voluntary Aided Schools);~~

~~e) Follow statutory requirements on Health and Safety, Construction (Design and Management) Regulations, Asbestos, Building Regulations, Planning~~  
~~(c) Approval and other statutory and regulatory requirements;~~

~~d) Be responsible for any loss arising from a failure to follow the advice of the~~  
~~(d) Council as "landlord" (this does not apply to Voluntary Aided Schools);~~

~~e) Seek the consent of the Council's Strategic Planning Team to proposed~~  
~~building work whatever the source of funds. This must be done through the~~  
~~completion of the Project Proposal Form which is available in the School~~  
~~Premises area of the CYPS Info site or can be requested from~~  
~~ampsuitability@northyorks.gov.uk, where schools can also request any~~  
~~(e) advice or guidance which may be required.~~

4. POWERS AND KEY DECISIONS – NOT USED

5. FORM OF CONTRACT

5.1 Every contract shall be evidenced in writing (by the use of a purchase order, exchange of correspondence or other written medium). -A signed Contract must be in place on or before the service commencement date, unless otherwise agreed by the Headteacher or Governing Body.

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5.2 Wherever appropriate, and for all Contracts exceeding £2530,000 ~~ex~~including VAT in value, such written agreements shall be made on the basis of terms and conditions agreed by the ~~ACE(LDS)Monitoring Officer~~. ~~Such terms and conditions may be incorporated into standard order conditions. The School may accept different terms and conditions proposed by a Contractor provided that the advice of the ACE(LDS)Monitoring Officer or CD-SR as to their effect has been sought and considered.~~

5.3 The written form of agreement must clearly specify the obligations of the School and the Contractor and shall include:-

- (a) the work to be done or the Supplies, Services or Social and Other Specific Services to be provided
- (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 The written form of agreement for all Contracts exceeding £25,000 excluding VAT 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 School, or~~

~~(ii) Has committed any offence under the Bribery Act 2010, or~~

~~(iii) Has committed an offence under Section 117 (2) of the Local Government Act 1972~~

~~the School 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 School may terminate the Contract and purchase the Supplies, Works, Services or Social and Other Specific Services from a third party and the School may recover the cost of doing so from the Contractor."~~

~~5.5 The standard clauses relating to the Freedom of Information Act 2000 and the Data Protection Act 2018 shall, wherever possible, be included in all Contracts.~~

~~5.6 Other standard clauses relating to, for example, equalities, the Public Services (Social Value) Act 2012, sustainability and best value; are not mandatory for each such written agreement referred to in Rule 5.4 above, but should be included where appropriate.~~

## 6. SIGNATURE/SEALING OF CONTRACTS

6.1 Every written Contract or Grant must be either signed or sealed in accordance with this Rule. ~~The ACE(LDS)Monitoring Officer~~ (or an Officer authorised by the Monitoring Officer~~ACE(LDS)~~) will determine whether a Contract must be signed or sealed.

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### Part 3 – LMS Procurement and Contract Procedure Rules

6.2 The Headteacher and such of his staff as he may designate are authorised to sign any such contract or Grant.

6.3 The Monitoring Officer ACE(LDS) also authorises such Contracts or Grants to be signed as outlined in Rule 2.12 and Tables 1-4 and Rule 1.3(e) provided that:-

- (a) appropriate authority exists for the School 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) Monitoring Officer, or
  - (iii) is otherwise in a form approved by the ACE(LDS) Monitoring Officer; and
- (c) any variations to approved forms of Contract must themselves be approved by the ACE(LDS) Monitoring Officer, whether or not they are effected-affected by amending the Contract itself or by correspondence

6.4 Only the Monitoring Officer ACE(LDS) (or a Legal and Democratic Services' Officer (LDSO) authorised by the Monitoring Officer ACE(LDS)) may seal a Contract on behalf of the School, in each case being satisfied that there is appropriate authority to do so. Where agreed by the Monitoring Officer, electronic Deed may be executed by the Monitoring Officer or a LDSO using the Council's chosen electronic deeds execution system.

6.5 Signatures may be affixed to a Contract either using physical, handwritten means or an Electronic Signature, as appropriate and in accordance with UK law.

6.6 Electronic Signatures may only be affixed using the Council's chosen electronic signature system or an approved alternative, as agreed by the Headteacher.

6.7 The use of Electronic Signatures is not permitted in circumstances where:

- (a) the Contract is to be sealed (except where 6.4 applies);
- (b) a physical handwritten signature needs to be filed;
- (c) there is a proviso in the Contract which prevents the use of an Electronic Signature;
- (d) the Contract may need to be enforced in a jurisdiction where Electronic Signatures are not accepted;
- (e) the Contract needs to be notarised.

## 7. BONDS AND LIQUIDATED DAMAGES

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- 7.1 Where appropriate, the School shall consider whether to include provision for the payment of liquidated damages by a Contractor for breach of Contract.
- 7.2 Where considered appropriate by the School, the Contractor will be required to provide a parent company guarantee / 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-SRS151 Officer considers appropriate.
- 7.3 NOT USED

## 8. QUOTES

- 8.1 Where the estimated value of a Contract is £2530,000 exclusive-inclusive of VAT or less (taking into account the whole life cost of the Contract, including extensions and/or variations ~~and excluding VAT~~) a minimum of three quotes should be sought.- There is no requirement to use the E-Sourcing system ~~or publish the opportunity on Contracts Finder (below £20,834 exclusive of VAT)~~.

### 8.2 NOT USED

- 8.32 It is the Responsible Officer's responsibility to keep a record of quotes sought for audit purposes and to demonstrate best value has been achieved.
- 8.43 If three quotes are not sought, the Contract may be directly awarded using the Best Value Form. -It is the Responsible Officer's responsibility to complete the Best Value Form.

## 9. BIDS

- 9.1 If the estimated value of a contract exceeds £2530,000 exinclusive of VAT but is less than the appropriate WTO GPA Threshold, bids must be invited from all potential Contractors in accordance with **Rule 2.12, Tables 1-3**.- A notice advertising the opportunity shall be published through the E-Sourcing System and on Contracts Finder 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 ITB documents may be obtained and the closing date for receipts of bids by the School.
- 9.2 All potential Contractors invited to submit bids shall be provided in all instances with identical information and instructions. -Where considered appropriate, Schools may permit potential Contractors who have been invited to submit bids under **Rule 9.1** to also submit variant bids (i.e. bids which do not comply with some or all of the requirements of the primary bid). -The same opportunity to submit variant bids must be given to all potential Contractors.
- 9.3 A written bid may only be considered if:-
- (a) it has been received electronically through the E-Sourcing System, or

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- (b) (where permitted in exceptional circumstances) it has been received in a sealed envelope marked "Bid" and indicating the subject matter of the bid and
- (c) it has been opened after the expiry of the deadline for submissions and at the same time as other bids for the same subject matter in the presence of at least two Officers authorised to open bids.

9.4 Before bids with a value in excess of £2350,000 ~~ex~~clusive of VAT are requested the evaluation criteria must be recorded in writing in the SQ and/ITB documents.- The evaluation criteria must be identified and the weighting between price and quality established and stated in the request for bids sent to participants.

9.5 If a bid other than the lowest or the most economically advantageous bid is to be accepted, the written approval of the Chair of the Governing Body ~~Governing Body~~ shall be sought and obtained before the bid is accepted.

9.6 A bid cannot be accepted where the value exceeds the relevant WTO GPA Threshold If the value of the bid exceeds the relevant WTO GPA Threshold the Headteacher must seek tenders in accordance with **Rules 11 and 12**.

9.7 Before a Contract is awarded after a bid exercise such steps shall be taken by the Responsible Officer -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.

9.8 Bids may be altered only in accordance with **Rule 10**.

9.9 Where a Contract is terminated within the first 6 months of the Contract commencement date, the School may award the Contract to the second placed supplier, provided that this demonstrates Best Value and with agreement from the Headteacher, in consultation with the Governing Body.

9.10 The evaluation of bids shall be carried out by a panel of suitably qualified Officers who are considered appropriate having regard for the subject matter and value of the Contract.

### 10. POST BID NEGOTIATION AND CLARIFICATION

10.1 Post bid negotiations may not be undertaken where the value of the Contract exceeds the relevant WTO GPA Threshold.- If the value of the bid exceeds the relevant WTO GPA Threshold, the School must invite tenders in accordance with **Rules 11 and 12**.

10.2 Post bid negotiations with selected Participants shall only be carried out where:-

- (a) post tender negotiations are permitted by law; and
- (b) the Headteacher in consultation with the Governing Body considers that added value may be obtained; and
- (c) post bid negotiations are conducted by a team of suitably experienced Officers approved by the Headteacher and who have been trained in post bid negotiations; and

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- (d) a comprehensive, written record of the post bid negotiations is kept by the Responsible Officer; and
- (e) a clear record of the added value to be obtained as a result of the post bid negotiations is incorporated into the Contract with the successful Participant.

10.3 **Rules 10.1 and 10.2** shall not operate to prevent clarification of all or part of any bid to the extent permitted by law and where such clarifications are sought the provisions of **Rules 10.2(c) and 10.2(d)** shall apply, except that the word "clarification" shall be substituted for the word "negotiation" in these Rules.

## 11. ABOVE THRESHOLD TENDERS

11.1 ~~Where the estimated value of the Tenders~~ for Contracts ~~which~~ exceed the WTO GPA Procurement Threshold, **Above Threshold Tenders** shall be invited and awarded in accordance with the PCRs and as prescribed in **Rule 11 and 12**.

### General Requirements

- 11.2 Before an Above Threshold Tender is requested the evaluation criteria to be applied to the Above Threshold Tender must be recorded in writing in the SQ and/or ITT document. - The evaluation criteria must be identified and the weighting between price and quality established and stated in the SQ and/or ITT sent to Participants.
- 11.3 Irrespective of the procurement process being undertaken a notice must be published on the Find ~~A-a~~ Tender Service system ~~and Contracts Finder~~, where possible this should be through the E-Sourcing ~~systems~~ system, or an appropriate alternative system as agreed by the Headteacher.
- 11.4 All Participants invited to submit Above Threshold Tenders shall be provided in all instances with identical instructions and information.
- 11.5 Where considered appropriate, the School may permit Participants to submit variant Above Threshold Tenders (i.e. tenders which do not comply with some or ~~all of all~~ the requirements of the primary tender). - The same opportunity to submit variant Above Threshold Tenders shall be given to all Participants. - Variant Above Threshold Tenders shall only be considered if the Participant also submits a compliant primary tender.
- 11.6 The evaluation of the Above Threshold Tender submissions shall be carried out by Officers who are considered appropriate having regard for the subject matter and value of the Contract.
- 11.7 All ~~Tenders~~ procurements undertaken in accordance with **Rule 11** shall have a minimum of 3 appropriate Officers to undertake the evaluation process. -The evaluation process will include:
  - Individual evaluation assessment and scoring
  - Consensus marking exercise
  - ~~Moderation~~ Independent review, where required
  - ~~Independent verification~~ Moderation by the evaluation panel, where required.
- 11.8 All evaluation panel members must have completed appropriate evaluation training prior to completing any evaluation process.

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11.9 Where a Contract is terminated within the first 6 months of the Contract commencement date, the School may award the contract to the second placed supplier with agreement from the Headteacher in consultation with the Chair of the Governing Body, provided that this demonstrated Best Value and none of the original award criteria has changed.

**12. OPTIONS FOR ABOVE THRESHOLD TENDERS**

12.1 The School shall identify which of the following Above Threshold Tender Procedures shall be used to invite tenders for Contracts with a value in excess of the relevant WTO GPA Procurement Threshold:

- (i) the Open Procedure (as prescribed by Regulation 27)
- (ii) the Restricted Procedure (as prescribed by Regulation 28)
- (iii) the Competitive Procedure with Negotiation (as prescribed by Regulation 29)
- (iv) the Competitive Dialogue Procedure (as prescribed by Regulation 30)
- (v) the Innovation Partnership Procurement (as prescribed by Regulation 31)
- (vi) use of the Negotiated Procedure without prior publication (as prescribed by Regulation 32)
- (vii) Social and Other Specific Services (Light Touch Regime) (as prescribed by Regulations 74-76)

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and such identified process shall be used for the invitation of Above Threshold Tenders in accordance with the requirements of the PCR's.

12.2 The School shall also identify which of the following techniques and instruments which can be used for Electronic and Aggregated Procurements:

- (i) Framework Agreement (as prescribed by Regulation 33)
- (ii) Dynamic Purchasing System (as prescribed by Regulation 34)
- (iii) Electronic auctions (as prescribed by Regulation 35)
- (iv) Electronic catalogues (as prescribed by Regulation 36)

**13. RECEIPT AND OPENING OF ABOVE THRESHOLD TENDERS**

13.1 A written above Threshold Tender may only be considered if:-

- (a) it has been received electronically through the E-Sourcing System, or (where permitted in exceptional circumstances, and subject to agreement by the Headteacher) it has been received electronically through an appropriate alternative method, such as a secure email inbox; or

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- (b) ~~(where permitted under Regulation 84(h))~~ it has been received in hard copy in a sealed envelope marked “Above Threshold Tender” and indicating the subject matter of the Above Threshold Tender, and the identity of the Participant cannot be ascertained from the tender envelope; and
- (c) (subject to **Rule 13.4**) it has been received by the Above Threshold Tender closing date and time.

- 13.2 The Headteacher (or a person designated ~~by him~~) shall be responsible for the reception and safe custody of Above Threshold Tenders until they are opened.
- 13.3 ~~Electronically submitted~~ Above Threshold Tenders, whether electronic or hard copy, must be opened at the same time, in an auditable way, by an independent Officer.
- 13.4 Where permitted under ~~(where permitted under~~ Regulation 84(h) of the PCRs and Above Threshold Tenders are returned in hard copy format a written record shall be maintained by the Headteacher, of the Above Threshold Tenders received. Such a record shall include the date and time of Above Threshold Tender opening, the identity of the Officer(s) present, the identities of Participants and the tendered sums (where readily ascertainable).
- 13.5 Above Threshold Tenders submitted in hard copy must be opened at the same time and in the presence of the Headteacher (or a person designated ~~by him~~) or, where the Procurement and Contract Management Services is undertaking the procurement, the ACE(LDS) Monitoring Officer (or an Officer designated ~~by him~~).
- 13.6 If an Above Threshold Tender is received after the specified closing date and time it may not be considered unless the Headteacher is satisfied that the Above Threshold 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 Participant.

### 14. ABOVE THRESHOLD TENDER EVALUATION AND ACCEPTANCE

- 14.1 The Responsible Officer shall evaluate Above Threshold Tenders using the evaluation criteria published in accordance with **Rule 11.2**.
- ~~14.2 Only in circumstances where an Above Threshold Tender is agreed by the Governing Body and the ACE(LDS) to be an abnormally low tender in accordance with the PCR's can an Above Threshold Tender other than the MEAT be accepted. In those circumstances a signed and dated record of the reasons for the action taken shall be made.~~
- ~~14.3 If, as a result of the Above Threshold Tender evaluation process the Headteacher is satisfied that an arithmetical error has been made inadvertently by a Participant such an error may, after clarification with the Participant, be corrected. The Headteacher shall record any such clarification in writing through the E-Sourcing System.~~
- 14.4<sup>2</sup> Before a Contract is awarded the School shall, determine whether it is proportionate and appropriate to complete a risk assessment to ascertain the financial stability of the successful Participant. 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.

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- 14.53 On completion of the evaluation of the Above Threshold Tenders received and once all internal approvals have been obtained, the School shall write to all Participants informing them of the outcome of the Above Threshold Tender evaluation and providing feedback on the content of their submission, in accordance with Regulation 55 of the PCR's.
- 14.64 The School shall wait a minimum of ten days (15 days if not sent electronically) from the date of issue of the letters notifying the Participants of the result of the evaluation before completing the Contract with the successful Participant, except where not required for example for call-offs under an existing Framework.
- 14.75 The School shall send for publication a Contract Award Notice to Find a Tender Service stating the outcome of the procurement procedure no more than 30 days after the award of the Contract.

### 15. CERTIFICATION OF CONTRACTS – NOT USED

### 16. EXCEPTIONS TO PROCUREMENT AND CONTRACT PROCEDURE RULES

- 16.1 A School does not need to invite bids in accordance with **Rule 9** in the following circumstances:-
- (a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBOs) and where such framework agreements are lawfully accessible to the School.— Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement; or
  - (b) the instruction of Counsel by the ACE(LDS Monitoring Officer); or
  - (c) where funding is received by the School, either in its own right or as an accountable body, and the terms of such grant or other external funding state that it must be applied in accordance with those terms; or
  - (d) purchases at public auctions (including internet auction sites, e.g. EbayaBay) where the School is satisfied that value for money will be achieved; or
  - (e) the purchase of Supplies, Works, Services or Social and Other Specific Services which are of such a specialised nature as to be obtainable from one Contractor only; or
  - (f) repairs to or the supply of parts for existing proprietary machinery or plant where to obtain such supplies from an alternative supplier would invalidate the warranty or contractual provisions with the existing supplier; or
  - (g) Social or Other Specific Services Contracts where:-
    - (i) the service is currently supplied by a Contractor to the satisfaction of the School, is considered to be offering value for money and where the

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foreseeable disruption to service users cannot justify the invitation of further bids, 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 School considers it inappropriate for bids to be invited, or

(iii) where the School is satisfied that the urgency of the need for the service prevents the invitation of bids in which case consideration shall be given to the duration of that service; or

(h) Contracts where the School deems that for reasons of extreme urgency brought about by unforeseeable events unattributable to the School, the timescales for obtaining bids cannot be met. A written record shall be signed and dated by the Chair of the Governing Body, whenever this Rule applies.

16.2 Where any of the exceptions set out in (d) to (h) above are applied a written record shall be signed, dated and kept. The Headteacher shall maintain a register of all recommendations made under this Rule.

16.3 The School does not need to invite Bids in relation to Pilot schemes, where below WTO GPA threshold, in relation to proof of concept / trialling a produce or are of innovation.

16.4 A School does not need to invite Above Threshold Tenders in accordance with **Rule 11 and 12**, in the following circumstances:

(a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBO's) and where such Framework Agreements are lawfully accessible to the School. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement. Where appropriate Officers should apply a minimum 10 day standstill period for all call-off Contracts awarded under an existing Framework Agreement. This is not mandatory but is deemed best practice; or

(b) where:

(i) Regulations 12 or 72 of the PCRs apply; or

(ii) any other specific exclusions as set out in the PCRs apply;

and the ~~ACE(LDS) Monitoring Officer~~, the Headteacher and Chair of the Governing Body are in agreement. A written record shall be signed and dated whenever this Rule applies and the Headteacher shall maintain a register of such written records.

#### Waivers

16.45 Specific exceptions to ~~Rule 9~~ these Rules are permitted in such other circumstances as the Headteacher and ~~the~~ Chair of the Governing Body may agree.

16.56 Requests for waivers shall be made using the Waiver Request Form prescribed by the CD-SRS151 Officer which shall specify the reasons for the request.

16.67 The Headteacher shall maintain a register of all waivers made under this Rule.

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~~16.78~~— Specific exceptions to **Rule 22.4** are permitted in such other circumstances as the ~~CD-SRS151 Officer~~ and the ~~ACE(LDS)Monitoring Officer~~ may agree.

**17. 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 The ~~C~~Headteacher shall be responsible for monitoring adherence to these Rules.

17.3 NOT USED.

17.4 ~~Each~~The Headteacher shall take all such steps as are reasonably necessary to ensure that Officers within their School are aware of and comply with these Rules.:-

~~17.5— The Headteacher is responsible for the production of a FPP which will be completed in such format as the Governing Body shall require.~~

~~17.6— NOT USED.~~

~~17.75~~ NOT USED.

~~17.68~~ The School shall maintain a Contract Register the purpose of which is to record key details of all Contracts with an aggregate value of £25,000 exclusive of VAT or more.

~~17.79~~ All Responsible Officers will notify the Headteacher of any Contract awarded ~~below above~~ £25,000 exclusive of VAT. The Responsible Officer will use the format prescribed by the Headteacher and report this information quarterly.

~~17.84~~ The Headteacher shall ensure that:-

- (a) all relevant Contracts (including those Contracts to which **Rule 16** applies) are entered onto the Contract Register; and
- (b) the Contract Register is maintained by entering new Contracts onto it and removing expired Contracts from it in line with the School's Records Retention and Destruction Schedule.

**Contracts Finder**

~~17.944~~ When a Procurement leading to a Contract in excess of £2530,000 including VAT is awarded the School shall ensure that such information as is prescribed in the PCRs is published on Contracts Finder ~~via the E-Sourcing system.~~ ~~This does not apply to Grants as detailed in Rule 2.12 Table 4.~~

**18. GATEWAY PROCESS REPORTS INCLUDING NOTIFICATION OF SECTION 151 OFFICER AND MONITORING OFFICER – NOT USED**

~~NOT USED~~

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## 19. CONTRACT MANAGEMENT

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. Such records shall also be used on the basis for any permitted extension to the Contract.~~

19.2 Where appropriate the Responsible Officer involved in contract management shall have received a level of formal training commensurate with the nature of the contract.

19.3 NOT USED

### Contract Variation

19.4 Contracts with a value below the relevant WTO GPA ~~Procurement~~ Threshold may be varied or extended 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)Monitoring Officer~~, whether or not they are ~~effected~~ affected by amending the Contract itself or by correspondence.

19.5 Contracts with a value in excess of the relevant WTO GPA ~~Procurement~~ Threshold may be varied or extended in accordance with the terms of that Contract or as outlined in Regulation 72 of the PCRs. Approvals must be sought by the Headteacher and Governing Body.

### Contract Termination

19.6 If an Officer requires a Contract which exceeds the financial values stated in Rule 18.2 of the Public Contract Thresholds to be terminated then this must be done in accordance with the terms of the Contract ~~or and in accordance with the as outlined in Regulation 72 of the PCRs, where applicable.~~ Approvals must be sought by the Headteacher and Governing Body.

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## 20. TRAINING FOR PROCUREMENT

20.1 Where appropriate 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. DECLARATION OF INTERESTS

21.1 ~~To ensure that persons involved in the procurement process are aware of, and adhere to the principles of impartiality and professional standards when dealing with, and completing commercial undertakings, a~~ Conflict of Interest declaration must be completed by all members of the evaluation panel upon commencement of the project. A Confidentiality Agreement or Declaration form must also be completed by any members of the evaluation panel who are not directly employed by the School, unless there are alternative appropriate confidentiality provisions within the persons appointment documents (such as a consultancy agreement).

## Part 3 – LMS Procurement and Contract Procedure Rules

21.2 If it comes to the knowledge of a Member, Responsible Officer or other Officer that a Contract in which they have 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, they shall immediately give written notice to the Headteacher.

## 22. GRANTS

22.1 ~~A grant is a sum of funds for a specific purpose. Under a grant agreement, the funder makes a payment to the recipient for a specific purpose. The recipient is not obliged to deliver any goods or services to the funder. The School may grant-fund third party organisations for example to help deliver community cohesion or to provide complementary activities. Responsible Officers should in consultation with the Council's Procurement and Contract Management Service and Monitoring Officer understand if the Grant is subject to the PCRs.~~

~~The School cannot procure services which it is itself required to deliver by means of a grant. The School may grant fund third party organisations to help deliver community cohesion or to provide complementary activities.~~

~~22.2 Taking into account 22.1 above the Headteacher shall consider when procuring the provision of the Services, Supplies Works or Social & Other Specific Services, whether a grant would be a preferable means to achieving its objectives rather than following a competitive bid process. A grant may only be awarded in circumstances where:~~

- ~~There is the legal power to make a grant for the purpose envisaged;~~
- ~~It does not contravene UK rules on subsidy control.~~

~~22.3 Where the value of a grant is less than £175,000 exclusive of VAT over 3 years, the Headteacher shall have the discretion to conduct a competitive application process for the award of that grant if doing so demonstrates best value for the School. If a Headteacher is not conducting a competitive application process then the Best Value Form must be completed to capture the rationale for the decision.~~

~~22.42 A competitive grants process should be completed and subsidy control law complied with. Where appropriate, the opportunity should be advertised on the E-Sourcing system. Where the value of the grant exceeds £175,000 exclusive of VAT over 3 years but is less than the relevant WTO GPA Threshold detailed in Rule 2.12 Table 4 a competitive grants process should be completed. The opportunity should be advertised on the E-Sourcing system.~~

~~22.53 Where the value of a grant exceeds the relevant WTO GPA Threshold, a competitive process must be completed and the opportunity must be advertised on the E-Sourcing system NOT USED.~~

~~22.64 The Responsible Officer shall take all such steps as are appropriate to monitor and review the performance delivery of the grant agreement, having regard to its value, nature, duration and subject matter. As part of the grant monitoring and review process the Responsible Officer shall maintain adequate records of performance delivery and details of review meetings with the grant recipient.~~

## 23. HIRING AND ENGAGING STAFF

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### Part 3 – LMS Procurement and Contract Procedure Rules

- 23.1 Where an Officer is hiring or engaging a staff member who is not on the School's payroll there is a legal requirement to determine whether it is the responsibility of the School to deduct tax and national insurance at source, in accordance with the requirements of the Social Security Contributions (Intermediaries) Regulations 2000, as amended (IR35).

#### **SCHOOL SPECIFIC RULES**

##### **24. CAPITAL EXPENDITURE**

- 24.1 Governing Bodies are permitted to use their budget share to meet the cost of capital expenditure on School premises.- The annual Devolved Formula Capital allocation to the School must be used in accordance with any rules and conditions specified as a condition of the award of the grant and can only be used for capital expenditure.
- 24.2 A Governing Body shall provide timely information, as required by the [CD-SRS151 Officer](#), for the allocation, monitoring, accounting and claiming of grant in respect of any and all other capital funding allocated or devolved to the School.
- 24.3 The School may accumulate its Devolved Formula Capital over no more than a three year rolling period to use on a project of a value greater than its annual allocation; that is, the current financial year plus the previous two. Any unused Devolved Formula Capital Grant which is older than this is subject to clawback by the Department for Education.

##### **25.- LEASING AGREEMENTS**

- 25.1 As the nature of these Leasing Agreements may conflict with the Council's position regarding the application of Government capital expenditure controls any such agreements must meet the following criteria:
- a) The agreement must not allow the School to become the owner of the equipment; in other words, the School cannot buy the equipment at any stage from the lessor.
  - b) The duration of the agreement must be short enough for the estimated value of the equipment at the end of the agreement period to be at least 10% of its initial cost.- This condition must be specified in the agreement.- An agreement for a large, heavily used photocopier, for example, should probably not exceed three years.
  - c) The agreement must not give the School an automatic right to continue with the lease at the end of the agreement period.- However, if the Governing Body wishes to extend the agreement this can be arranged subsequently at an open market rental.
  - d) Any sale proceeds arising from the disposal of equipment is payable to the leasing company and not to the School.
  - e) The new lease cannot be used to settle any outstanding debt on a previous lease arrangement.

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