



Leicester
City Council

PART 4G – RULES OF PROCEDURE

PART 4G – CONTRACT PROCEDURE RULES

This section was approved by Council on 18/06/15

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PREAMBLE

Defined words are shown with initial capital letters and definitions given/signposted in Appendix 1 at the end of these Rules.

1. The Contract Procedure Rules

- 1.1 These Contract Procedure Rules are a legal requirement and are part of the Council's Constitution. Section 135 of the Local Government Act 1972 requires every local authority to make standing orders with respect to Contracts for the supply of Goods or for the execution of Works and provides that local authorities may make standing orders in respect of other contracts. Contract Procedure Rules fulfil these statutory requirements. Contract Procedure Rules set out the basic principles that must be followed by everyone proposing to enter into any Contract on behalf of the Council. Following these Contract Procedure Rules ensures that the Council meets its legal obligations and therefore it is important that all officers understand, apply and adhere to Contract Procedure Rules.
- 1.2 The Public Contracts Regulations 2015, which are derived from EU public procurement law, also require the Council to follow specific processes for certain contracts. Contract Procedure Rules are designed to ensure that open, fair and transparent processes are applied throughout the whole commissioning and procurement cycle in order to help secure Best Value and continuous improvements for the Council and protect the Council (and its officers and members) in the event of challenge and dispute.
- 1.3 Contract Procedure Rules apply to all the Council's departments (including arrangements with Voluntary & Community Sector Enterprises (VCSEs)). This means that every department, internal trading department and organisation or external partner managing Contracts on the Council's behalf must comply with the Contract Procedure Rules.
- 1.4 If there is any doubt or lack of clarity as to the meaning or application of these Contract Procedure Rules, officers must seek advice from Procurement Services and/or Legal Services.

2. Aims

- 2.1 These Contract Procedure Rules aim to:
 - 2.1.1 achieve Best Value and deliver savings from the market;
 - 2.1.2 achieve accountability and transparency at all levels within the Council, and ensure an adequate audit trail is maintained;

- 2.1.3 ensure that officers comply with legal requirements and follow proper, fair and proportionate procedures for the involvement and selection of Bidders and the award of Contracts;
- 2.1.4 ensure that all procurement processes reflect appropriate quality requirements and that Submissions are judged by objective criteria set out in Invitation to Tender or Request for Quotation documentation;
- 2.1.5 ensure that all procurement processes are delivered within an appropriate legal framework
- 2.1.6 ensure that appropriate levels of monitoring exist to ensure compliance and that these Contract Procedure Rules are regularly reviewed to take account of new requirements;
- 2.1.7 ensure that as many potential suppliers as possible are able to identify opportunities and to put themselves forward;
- 2.1.8 ensure that the Council's wider policy objectives are promoted (including environmental sustainability, economic regeneration, business continuity);
- 2.1.9 reduce the risk of fraud, bribery and corruption.

3. Compliance with Contract Procedure Rules

- 3.1 Where the Council fails to comply with procurement legislation, it leaves itself open to challenges from Bidders/Contractors who may bring claims for damages against the Council. Non-compliance may also lead to the Council being fined and/or having funding withdrawn.
- 3.2 Failure to comply with the provisions of Contract Procedure Rules may be considered as misconduct and result in disciplinary action. Where it is considered appropriate, misconduct may be reported to the Police with potential criminal consequences for any person involved.
- 3.3 Responsibility for compliance with Contract Procedure Rules rests with anyone who carries out procurement of Goods, Services or Works for, or on behalf of, the Council.

4. Procurement Guidance

- 4.1 The Head of Procurement, where appropriate in consultation with the City Barrister, may from time to time publish procurement processes and/or guidance to amplify and fine tune the steps to be taken as part of procurement and contract management processes or vary the standard procurement documents.

4.2 Where there is any ambiguity or conflict between these Contract Procedure Rules and or guidance issued under this Rule, the provisions of Contract Procedure Rules shall take precedence.

5. Processes

5.1 Tender and Quotation processes assist Procuring Officers in meeting their obligation to deliver a fair and transparent procurement process that encourages competition and delivers good value solutions that meet the requirements of the Council.

5.2 The higher the value and risk, the more rigorous the process. The Council recognises the administrative cost involved in tendering Contracts and provides for less exhaustive processes for lower value Contracts. These Contract Procedure Rules set value levels and describe how these will apply together with the procedures that must be followed. A risk assessment should be conducted as required by the Council's Risk Management Strategy and Policy and this will inform the procurement process and documentation in many ways.

5.3 The use of electronic quotation and tendering processes helps to reduce the burden, improve transparency and reduce the Council's carbon footprint.

5.4 The procedures are designed in incremental steps depending upon the value of the Contracts. Contracts that exceed the EU Thresholds are subject to the most rigorous processes.

6. Transparency

6.1 The Council is required to ensure that its processes are fair and transparent and will publish data in accordance with the requirements stated in the Local Government Transparency Code 2014 and any additions or amendments thereto.

7. Social Value

7.1 On 31st January 2013 the Public Services (Social Value) Act 2012 came into effect. The Act requires the Council under certain circumstances to consider how the economic, social and environmental wellbeing of Leicester may be improved by Services that are to be procured, and how procurement activity may secure these improvements.

7.2 The statutory requirements of the Public Services (Social Value) Act 2012 only apply

to Services Contracts over the EU Threshold; however, the Council will, wherever possible, implement the principles of social value procurement into the commissioning and procurement of all Large and EU Contracts, and where appropriate Intermediate Contracts.

8. Collaboration

- 8.1 There may be demonstrable benefits of collaborative procurement with the wider public sector, as well as (where permitted) the private and voluntary sectors, and the Council should consider taking advantage of these where appropriate and including the opportunity for others to join in contracts that it is procuring.

9. Best Value & the Delivery of Savings

- 9.1 All officers must be mindful of their responsibility in securing Best Value through all procurement activity and must consider how savings can be delivered.

10. Contracts Database and Electronic Tendering System

- 10.1 Procuring Officers must record all Intermediate, Large and EU Contracts in the Contracts Database, which is part of the Electronic Tendering System.
- 10.2 With the introduction of the Electronic Tendering System, many of the requirements for security and segregation required for the processing of Submissions are covered by the security features built into the system. In addition the system is fully auditable.
- 10.3 In exceptional circumstances there may be occasions when use of the Electronic Tendering System is not appropriate or possible. E-mail and/or hard copy Submissions may be required.
- 10.4 Any reference in these Rules to “written”, or “in writing”, will be satisfied by an e-mail, a process within the Electronic Tendering System or any other Electronic Means.
- 10.5 Electronic auctions may be used, so long as, where applicable, Regulation 35 of the Public Contracts Regulations 2015 is complied with.

11. Contract Management

- 11.1 Contracts must be properly managed after they have been awarded to ensure compliance and continuous improvement. Therefore in addition to the processes by which Contracts are established, these Contract Procedure Rules also cover aspects of contract management which relate to ongoing Contract Variation, price control or

termination of Contracts at any time during the contract period.

- 11.2 The majority of the 'life' of most contracts is spent in contract management and effective performance management will help ensure that the contract delivers what is intended at the intended price. Contracts should include an appropriate framework for contract monitoring, quality assurance and measurement of continuous improvement. The need to maintain proper and auditable records cannot be over emphasised.

GENERAL PROVISIONS

12. Status

12.1 In the event of any inconsistencies between the provisions of Contract Procedure Rules and the provisions of the law, then the provisions of the law shall prevail.

12.2 These Contract Procedure Rules:

- 12.2.1 are made under Section 135 of the Local Government Act 1972 and all other relevant enabling powers;
- 12.2.2 are applicable to all members, officers and staff, including agency staff, interims and consultants, of the Council;
- 12.2.3 are applicable to all departments of the Council, including the Council's trading organisations and organisations for which the Council is the accountable body;
- 12.2.4 are applicable where the Council is acting as agent for another body (principal) unless the principal directs otherwise;
- 12.2.5 must be adopted by any external Contractor that is acting as an agent of the Council and empowered to form contracts on behalf of the Council and by any person who is not an officer of the Council engaged to manage a contract on behalf of the Council;
- 12.2.6 shall be interpreted so far as possible to ensure the aims set out at Rule 2 of these Contract Procedure Rules are achieved;
- 12.2.7 are not applicable to expenditure between or within Council departments;
- 12.2.8 are applicable to Maintained Schools, as detailed/amended in Appendix 2, but are not applicable to Academies (including Free Schools).

13. Scope

13.1 These Contract Procedure Rules are applicable to the formation of Contracts and to any matters as may arise in the process of managing Contracts including those which change, vary or terminate any Contract during its term, or extend its term.

13.2 These Contract Procedure Rules are applicable to all Contracts for the:

- 13.2.1 provision, supply, and/or hire to the Council of Goods, Works or intellectual property;

- 13.2.2 for the provision of Services, including consultancy, to the Council;
- 13.2.3 Works and Services Concession Contracts;
- 13.2.4 disposal of capital assets;

which may include Contracts from which the Council receives an income.

- 13.3 These Contract Procedure Rules apply to the award of a Contract where a sub-contractor or supplier is to be nominated by the Council to a main Contractor.
- 13.4 These Contract Procedure Rules are not applicable to:
 - 13.4.1 Contracts for the acquisition or disposal of any interest in land;
 - 13.4.2 Contracts of employment;
 - 13.4.3 Contracts for the lending or borrowing of money;
 - 13.4.4 Grants that are given to support the aims and objectives of an organisation or as gap funding, so long as they fall outside of the following definition of procurement (taken from the Public Contracts Regulations 2015): “the acquisition by means of a public contract of Works, supplies or Services by [the Council] from economic operators chosen by [the Council], whether or not the Works, supplies or Services are intended for a public purpose”;
 - 13.4.5 Functional arrangements with other public bodies, including arrangements which meet the criteria set out in the Regulation 12 of the Public Contracts Regulations 2015, so long as the advice and prior written approval of the City Barrister has been obtained.

14. Private Interests

- 14.1 No member, officer or agent of the Council, shall improperly use their position to obtain any personal or private benefit from any Contract entered into by the Council.
- 14.2 Employees shall comply with the Code of Conduct for Officers (Appendix V of the Local Conditions of Service). Section 7 of the Code deals with ‘Balancing Personal and Work Life’ and includes requirements for registering interest and maintaining the highest standards of probity and fairness.
- 14.3 Members’ interests are governed by the Code of Conduct for Members. This includes the requirement for members to declare interests in Contracts to the City Barrister.

- 14.4 Whenever any member, officer or other person involved in a procurement process on behalf of the Council has any interest, or could be perceived to have any interest, in a Bidder or potential Bidder, this interest must be notified in writing to the Procuring Officer, or (e.g. in the case of the Procuring Officer), to the Head of Procurement and/or City Barrister. Any such interest must be declared even if it has been declared on an earlier occasion, either generally or in relation to another Contract/procurement exercise. The Head of Procurement, in consultation as appropriate with the City Barrister, will decide how, if at all, the process, or the role of the person concerned, should be adjusted to ensure fairness can be demonstrated, and to reduce any potential accusation of misconduct, eliminate bias and maintain the integrity of the process.

THRESHOLDS

15. Financial Parameters

- 15.1 Before the procurement of any Contract is begun the Commissioning Officer must calculate its Estimated Value in accordance with this Rule.
- 15.2 The Estimated Value shall be calculated as follows:
- 15.2.1 Where the Contract period is fixed the Estimated Value shall be the total estimated maximum value of the Goods, Services or Works to be supplied over the period covered including any extensions to the Contract;
- 15.2.2 Where the Contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value
by 48;
- 15.2.3 For trials or pilots the Estimated Value shall be the value of the scheme or Contracts which may be awarded as a result;
- 15.2.4 For Concessions the Estimated Value shall include the total income, regardless of source, to the Contract or over the Contract period;
- 15.2.5 The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties;
- 15.2.6 Periodic purchases for the same requirement, whether that is from the same or different contractors, must be aggregated over a minimum of a 12-month period;
- 15.2.7 Requirements for any department or section of the Council should be included (no department or section is permitted to regard itself as a 'discrete operational unit' within the terms of the Public Contracts Regulations 2015);
- 15.2.8 Where the Council may be contributing only part of the total value of a Contract, it is nevertheless the total Estimated Value that must be applied in determining the correct procedures to be applied under these Rules;
- 15.2.9 The value should be calculated considering the total consideration that the Contractor(s) will receive in return for carrying out the Contract, whatever the nature or source of the consideration.
- 15.3 Where there is any doubt as to the Estimated Value then the procedure for the higher categorisation must be used.

- 15.4 The requirement shall be looked at as a whole and must not be artificially split to avoid competition.
- 15.5 In calculating the Estimated Value, the Commissioning Officer shall take account of historic cost and an assessment of future trends or, where the requirement is new, the best estimate of value available at the time.
- 15.6 The following table sets out the thresholds for categorisation of Contract into value bands based on the Estimated Value as calculated following the principles set out above.

Contract Categorisation	Value	
	Goods & Services	Works & Concessions
Minor Contract	£0 - £1,000	£0 - £5,000
Small Contract	£1,000 - £10,000	£5,000 - £25,000
Intermediate Contract	£10,000 - £75,000	£25,000 - £250,000
Large Contract	£75,000 – EU Threshold	£250,000 – EU Threshold
EU Contract	Over EU Threshold	Over EU Threshold

- 15.7 Subject to the prior written approval of the Head of Procurement the Procuring Officer may make use of the “Small Lots” provision set out at paragraph 14 of Regulation 6 of the Public Contracts Regulations 2015, and therefore not aggregate the value of all requirements. The Procuring Officer must follow a procedure to award the Contract based on the value of that ‘Small Lot’ alone and how it would be categorised in the table in Rule 15.6 above.

APPROVALS & REPORTING

16. Procurement Plan

16.1 The Executive is responsible for periodically approving a Procurement Plan. The Procurement Plan will consist of a list of EU Contracts expected to be procured to alert members, the public and potential Bidder.

16.2 Before procurement of any EU Contract reaches the Advertisement stage, it must be approved either:

16.2.1 by the Executive through inclusion in the Procurement Plan; or

16.2.2 by the Executive through a separate decision approving commencement of procurement; or

16.2.3 by the Chief Operating Officer, in consultation with the Director of Finance and the City Barrister, through a separate decision approving commencement of procurement.

16.3 Where an EU Contract is being procured without an Advertisement stage, it must be approved by the Executive through either:

16.3.1 by the Executive through inclusion in the Procurement Plan; or

16.3.2 by the Executive through a separate decision approving procurement; or

16.3.3 by the Chief Operating Officer, in consultation with the Director of Finance and the City Barrister, through a separate decision approving procurement,

Prior to the Contract being awarded.

16.4 The award of any EU Contract pursuant to a procedure approved as per Rule 16.2 or 16.3 is delegated to the appropriate Divisional Director in consultation with the Head of Procurement and the City Barrister.

16.5 The award of all non-EU Contracts is delegated to officers as set out in Rule 28 below.

17. Procurement Pipeline

17.1 The Head of Procurement will maintain a Procurement Pipeline and make this available on the Council's website to members, the public and potential Bidder, which will comprise:

17.1.1 the Procurement Plan; and

17.1.2 a similar list of known Intermediate Contracts and Large Contracts.

18. Procurement Strategy

18.1 The Executive is responsible for periodically approving a Procurement Strategy, which will include the Council's approach to procurement and how procurement and management of Contracts will contribute to the overall aims and objectives of the Council.

19. Monitoring & Reporting

19.1 The Audit & Risk Committee will receive a report at least annually to include:

19.1.1 Delivery of the Procurement Strategy;

19.1.2 Achievement of the Procurement Plan;

19.1.3 Compliance with these Rules, including a summary of Waivers;

19.1.4 Any changes to these Rules made under Rule 20 below; and

19.1.5 Any proposals for changes to these Rules to be made to Full Council.

19.1.6 The Bi-annual monitoring reports prepared under section 19.2 below

19.2 The Executive will receive bi-annual monitoring reports of all Waiver activity undertaken pursuant to section 24 of these Rules and all Contract Extensions undertaken pursuant to sections 60.5 and 60.6 of these Rules.

20. Minor Amendments to these Rules

20.1 The Chief Operating Officer, in consultation with the Head of Procurement and the City Barrister, may from time to time amend the thresholds in the table in Rule 15.6.

20.2 The City Barrister, in consultation with the Head of Procurement, may from time to time amend these Rules:

20.2.1 To correct an error or clarify an ambiguity;

20.2.2 To reflect changes in the management structure, working practices and responsibilities, e.g. as set out elsewhere in the Constitution; and

20.2.3 To reflect changes in the law where otherwise these rules would not be constituent with the law;

20.3 If changes to these Rules are made pursuant to Rule 20.1 or 20.2 above, the City Barrister shall cause such changes to be published and the Constitution to be amended.

21. Periodic Review of the Rules

21.1 The Head of Procurement and City Barrister, in consultation with the Chief Operating Officer, shall at least every five years review these Rules and, if deemed appropriate, propose amendments to Full Council, following an initial report to Audit & Risk Committee.

22. Financial Approval

22.1 Before procurement of any Contract reaches the Advertisement stage, it must have financial approval from the appropriate officer(s), as set out in the table below:

Contract Categorisation	Financial Approval
Minor Contract	Budget Holder(s)
Small Contract	Budget Holder(s)
Intermediate Contract	Head of Service
Large Contract	Divisional Director and Head of Finance
EU Contract	Divisional Director and Head of Finance

EXCLUSIONS, EXEMPTIONS & WAIVERS

23. No Competition

- 23.1 The actions permitted under this Rule must be considered alongside the requirements of EU Directives, the Treaty on the Functioning of the European Union (TFEU), Acts of Parliament and UK Regulations, all of which take precedence over these Rules. Procuring Officers should seek advice from Procurement Services and Legal Services.
- 23.2 The Commissioning Officer may directly negotiate the award of a Contract without competition, to one or more Contractors for the following social care/education Services:
- 23.2.1 residential placements sought for an individual with a registered care provider of their choice;
- 23.2.2 supported living Services sought for an individual with an appropriate care and support provider of their choice under the National Health Service and Community Care Act 1990;
- 23.2.3 individual school placements sought for a child with Special Educational Needs (SEN);
- 23.2.4 social care and special education packages managed by or on behalf of individual clients under the personalisation agenda; and
- 23.2.5 where certain needs of an individual (whether an adult or a child) require a particular social care package, which is only available from a specific Contract or in the opinion of the Divisional Director.

In each case the Divisional Director must ensure that the contractor meets the relevant national minimum standards (for example those standards set by the Health and Social Care Act 2008, OFSTED and HMI) and that a record of the reasons for the choice of the Contractor is maintained on the individual's case notes. A written record of the annual cumulative expenditure with each Contractor will be maintained by each division and made available for audit.

- 23.3 The Commissioning Officer may award a Minor or Small Contract without competition, following direct negotiation, to one or more VCSEs where, if the Council were not to Contract with the VCSE(s) it would significantly affect customers, or other greater gains or benefits would be lost.

24. Exemptions & Waivers

- 24.1 The Commissioning Officer may request an Exemption to the Contract Procedure Rules to directly negotiate the award of a Contract without competition by completing a Form for Exemptions & Waivers (FEW) for Contracts for:
- 24.1.1 Goods, Services or Works which are available only as proprietary or patented articles; Services or Works from one Contract or for which there is no reasonably satisfactory alternative available in the European Union; and for repairs to, or the supply of, parts of existing proprietary or patented articles or Works, including machinery or plant;
 - 24.1.2 works of art, museum specimens or historical documents (the completion and authorisation of a FEW is not required if the Contract is for the Arts & Museum Service);
 - 24.1.3 particular artistes and performers and bought-in productions (the completion and authorisation of a FEW is not required if the Contract is for Arts & Museum Service);
 - 24.1.4 those genuine unforeseen emergencies (not of the Council's own making), where immediate action is required, including in order to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004;
 - 24.1.5 Goods, Services or Works where one of the criteria for use of the Negotiated Procedure without Prior Publication set out in Regulation 32 of the Public Contracts Regulations 2015 is met;
 - 24.1.6 certain Services set out in Regulation 10 of the Public Contracts Regulations 2015:
 - a) certain legal Services;
 - b) certain financial Services; public passenger transport Services by rail or metro;
 - c) certain civil defence, civil protection or danger protection Services.
- 24.2 When none of the circumstances listed in Rule 24.1 apply, the Commissioning Officer may, following consultation with the Head of Procurement, request a Waiver of the Contract Procedure Rules by completing a Form for Exemptions & Waivers (FEW).
- 24.3 The following table sets out the required authorisations for Exemptions and Waivers.

Contract Categorisation	Exemption	Waiver
Minor Contract	Head of Service	Head of Service
Small Contract	Divisional Director	Divisional Director & Head of Procurement
Intermediate Contract	Divisional Director & Head of Procurement	Divisional Director & Head of Procurement
Large Contract	Divisional Director & Head of Procurement	Divisional Director & Head of Procurement & City Barrister
EU Contract	Divisional Director & Head of Procurement & City Barrister	Divisional Director, Head of Procurement, City Barrister & Chief Operating Officer

24.4 Exemptions and Waivers may alternatively be authorised by the Executive supported by formal advice from the Head of Procurement and City Barrister. In-House

25. In-House

25.1 Where an in-house service is able to provide the Goods, Services or Works required by another department/service of the Council, the Commissioning Officer should consult with the in-house service prior to commencing a procurement exercise.

25.2 Where the Commissioning Officer considers it more advantageous to the Council as a whole to procure the service externally rather than use the in-house service, the Contract Procedure Rules must be followed.

25.3 Where the Commissioning Officer decides to engage the in-house service, these Contract Procedure Rules do not apply.

TERMS AND CONDITIONS

26. Contract Duration

- 26.1 A Contract may not be of indeterminate duration or have a duration exceeding five years without the prior written approval of the Head of Procurement and appropriate Divisional Director.
- 26.2 A Framework Agreement may not be of indeterminate duration or have a duration exceeding four years without the prior written approval of the Head of Procurement and City Barrister.

27. Contract Terms

- 27.1 For Minor Contracts, the Commissioning Officer may place a Purchase Order including the Council's Standard Terms and Conditions.
- 27.2 For Small and Intermediate Contracts, the Procuring Officer may use:
 - 27.2.1 Appropriate Industry Standard Contract Templates, e.g. NASS, JCT or NEC; or
 - 27.2.2 The Council's Standard Contract Templates for the appropriate type of Contract;

provided no significant amendments are made to these templates. If these templates require significant amendment or bespoke terms and conditions are required, the Procuring Officer must engage Legal Services to provide appropriate terms and conditions. If the Council is to Contract on a Contractor's terms and conditions, these must be approved in writing by Legal Services prior to the Contract being signed.
- 27.3 For Large and EU Contracts, the Procuring Officer must engage Legal Services to provide and/or approve appropriate terms and conditions.

28. Execution of Contracts

- 28.1 For Small Contracts, the Procuring Officer must complete a Delegated Powers Certificate (DPC) for authorisation by the Head of Procurement and Budget Holder. Once the DPC is authorised, the Procuring Officer may award the Contract.
- 28.2 For Intermediate Contracts, the Procuring Officer must complete a DPC for authorisation by the Head of Procurement and appropriate Head of Service. Once the DPC is authorised, the Procuring Officer may award the Contract.

- 28.3 For Large and EU Contracts with no Standstill Period, following completion of the evaluation procedure, the Procuring Officer must complete a DPC for authorisation by the Head of Procurement and appropriate Divisional Director. Once the DPC is appropriately authorised, Legal Services may issue the Contract to the Contractor(s) for execution.
- 28.4 For Large and EU Contracts with a Standstill Period, following completion of the evaluation procedure, the Procuring Officer must complete a DPC for authorisation by the Head of Procurement and appropriate Divisional Director. Once the DPC is appropriately authorised, the Procuring Officer may issue the notices under Rule 56.1 to commence the Standstill Period. On completion of the Standstill Period, the DPC must be again authorised by the Head of Procurement, and, if a challenge is received, by the City Barrister. Once the DPC has again been appropriately authorised, Legal Services may issue the Contract to the Contractor(s) for signature.
- 28.5 For Contracts awarded pursuant to Rule 23.2, the City Barrister and appropriate Divisional Director may agree in writing alternative arrangements for the execution of Contracts.
- 28.6 Large and EU Contracts must be executed in accordance with Article 15.05 (Authority to sign contracts and other documents) of the Constitution.
- 28.7 Letters of Intent may only be issued ahead of the full Contract with the prior written approval of the City Barrister.

29. Mandatory Clauses

- 29.1 The proposed terms of Contract must include the provisions:
- 29.1.1 Permitting the termination of the Contract and the recovery of any sums paid where there has been evidence of bribery or corruption.
- 29.1.2 Entitling the Council to terminate part or all of the Contract or to obtain substituted provision of the Goods, Services and Works to be supplied under the Contract in the event of a breach of Contract by or the insolvency of the Contractor.
- 29.1.3 Stating the price (and/or any mechanism by which the price, any additional price or discounts are to be ascertained), and where appropriate, setting out the mechanisms for payment such as BACS, and requiring the inclusion of purchase orders numbers on invoices.
- 29.1.4 For Intermediate, Large and EU Contracts, prohibiting the Contract or from sub-contracting, assigning or otherwise transferring the Contract without the prior written consent of the Council and providing that the Contractor shall remain liable

to the Council for any part of the Contract that may be sub-contracted.

- 29.1.5 Requiring compliance by the contractor with any relevant legislative requirements, including where appropriate, in respect of:
- a) health and safety, including the setting up of appropriate systems and procedures for the Goods, Services and Works procured;
 - b) the prevention of inequality and the promotion of equality;
 - c) the observance of human rights in the performance of functional activity under the Contract (as if the Contractor were a public body);
 - d) Freedom of Information and Environmental Information Regulations, and requiring the Contractor to co-operate with the Council in dealing with requests, the Contractor accepting that information will be liable to disclosure and allowing for requirements as to local transparency on Contracts and Tenders;
 - e) data protection, confidentiality and information security;
 - f) clinical governance; and
 - g) workforce transfer legislation, where appropriate, including associated codes of practice.
- 29.1.6 Setting out indemnities for any claim in respect of employer's liability or public liability arising from the Contract, including if appropriate infringement of intellectual property rights, and appropriate insurance requirements of the Contractor;
- 29.1.7 Setting out indemnities in respect of claims made against the Council made in respect of a Contractor's activities and the provision of satisfactory insurance against such claims;
- 29.1.8 In cases where the Contractor's activities are of a type that can normally be so insured, requiring provision to the Council of evidence of satisfactory professional indemnity insurance held by the Contractor.
- 29.1.9 Where appropriate, requiring the provision to the Council of adequate Intellectual Property protection together with an indemnity protection;
- 29.1.10 Requiring the provision to the Council of adequate warranties (or direct covenants) from manufacturers of mechanical and engineering supplies, or for supplies of other products, where the Council's requirements have prescribed or prohibited materials or where a duty of skill and care is appropriate to the manufacture of the product in Contracts for the purchase of Goods;

- 29.1.11 If necessary, ensuring that appropriate vetting and barring is undertaken to ensure the safety of vulnerable groups, and appropriate safeguarding requirements, such as in relation to incident reporting, the Council's right to investigate and access to records/data;
- 29.1.12 For professional consultancy Contracts, requiring fair dealing in the case of conflict of interest;
- 29.1.13 Where appropriate for Large and EU Contracts, obliging the Contractor to maintain continuous improvement throughout the Contract period which may result in efficiencies to the Council's benefit;
- 29.1.14 Requiring the Contractor to Grant reasonable access to the Council to information relating to the Contract, and to undertake appropriate monitoring and compliance procedures;
- 29.1.15 Where appropriate, requiring relevant and proportionate social value considerations, such as prompt payment of sub-contractors.

USE OF PROCEDURES

30. Principles

- 30.1 A Contract of a lower categorisation may be procured via a procedure for a Contract of a higher categorisation, especially when the requirement is complex or the Contract could be considered high risk, so long as the procedure is proportionate to the requirement and complies with the Public Contracts Regulations 2015.
- 30.2 Where the Public Contracts Regulations 2015 permit (or do not fully apply), the procurement procedures set out in Rules 36 to 44 may be adapted to suit the nature of the procurement process in question. The process to be followed must be set out in the documents issued to Bidders and must at all times be fair and transparent.
- 30.3 Where a collaborative procurement process is being led, or has already been conducted, by another public sector body, the Contract Procedure Rules (or equivalent) of that public body shall apply to the process, so long as all relevant legislation is complied with.
- 30.4 The Commissioning Officer and Procuring Officer must ensure that any Quotation/Tender, if accepted, is reasonable in all the circumstances and represents value for money for the Council.

31. Minor Contracts

- 31.1 For Minor Contract, the Commissioning Officer should obtain at least one written quotation, preferably from a Local Bidders.
- 31.2 Whilst there is only a requirement for one quotation the Commissioning Officer must consider whether additional quotations are in the Council's best interests.
- 31.3 Where it is not practical or possible to obtain a written quotation, the Commissioning Officer must obtain at least one oral quotation and record this contemporaneously.

32. Small Contracts

- 32.1 Small Contracts must be procured by one of the Specialist Procurement Teams and/or using the Electronic Tendering System, unless agreed otherwise by the Head of Procurement.
- 32.2 Small Contracts must be procured in one of four ways:

- 32.2.1 An Advertised Quotation process;
- 32.2.2 A Quick Quotation process;
- 32.2.3 A Targeted Quotation process; or
- 32.2.4 Use of a Non-LCC Framework Agreement (with approval from the Head of Procurement).

33. Intermediate Contracts

- 33.1 Intermediate Contracts must be procured by one of the Specialist Procurement Teams, unless agreed otherwise by the Head of Procurement.
- 33.2 Intermediate Contracts must be procured in one of four ways:
 - 33.2.1 An Advertised Quotation process;
 - 33.2.2 A Competition for Funding process;
 - 33.2.3 Use of a Non-LCC Framework Agreement; or
 - 33.2.4 A Targeted Quotation process (with the approval of the Head of Procurement).

34. Large Contracts

- 34.1 Large Contracts must be procured by one of the Specialist Procurement Teams, unless agreed otherwise by the Head of Procurement.
- 34.2 Large Contracts must be procured in one of four ways:
 - 34.2.1 An Open Tender process;
 - 34.2.2 A Restricted Tender process, but only where permitted by Regulation 107 of the Public Contracts Regulations 2015;
 - 34.2.3 A Competition for Funding process; or
 - 34.2.4 Use of a Non-LCC Framework Agreement.

35. EU Contracts

- 35.1 EU Contracts must be procured by one of the Specialist Procurement Teams, unless agreed otherwise by the Head of Procurement.

- 35.2 EU Contracts must be procured in one of the following ways:
 - 35.2.1 An Open Tender procedure;
 - 35.2.2 A Restricted Tender procedure;
 - 35.2.3 Use of a Non-LCC Framework Agreement;
 - 35.2.4 A Competition for Funding process (only for Services listed in Schedule 3 to the Public Contracts Regulations 2015);
 - 35.2.5 An Innovation Partnership or Design Contest procedure;
 - 35.2.6 A Competitive Procedure with Negotiation; or
 - 35.2.7 A Competitive Dialogue procedure.

- 35.3 The Innovation Partnership or Design Contest procedures, Competitive Procedure with Negotiation, and Competitive Dialogue procedure may only be used with the approval of the Head of Procurement and City Barrister.

PROCUREMENT PROCEDURES

36. Advertised Quotation

- 36.1 The Procuring Officer must advertise the requirement for an appropriate period of time to allow interested parties to respond.
- 36.2 A Request for Quotation (RfQ) document must be made available to all interested parties who respond to the Advertisement. The RfQ must contain or identify:
 - 36.2.1 Instructions for the completion and return of Quotations;
 - 36.2.2 A Specification setting out the Council's requirements;
 - 36.2.3 The proposed terms and conditions of Contract; and for Intermediate Contracts:
 - 36.2.4 The procedure for the evaluation of Quotations.
- 36.3 Quotations received in accordance with the instructions contained in the RfQ (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the RfQ to make a decision on which Bidder(s), if any, will be awarded the Contract.

37. Quick Quotation

- 37.1 The Procuring Officer must use the Electronic Tendering System to notify a random selection of appropriate organisations which have pre-registered on the Electronic Tendering System and invite them to quote.
- 37.2 A minimum of five organisations must be invited to quote. If there are insufficient appropriate organisations pre-registered on the Electronic Tendering System, a Quick Quotation Procedure may not be used.
- 37.3 A Request for Quotation (RfQ) document must be made available to the selected organisations who respond to the Advertisement. The RfQ must contain or identify:
 - 37.3.1 Instructions for the completion and return of Quotations;
 - 37.3.2 A Specification setting out the Council's requirements;
 - 37.3.3 The proposed terms and conditions of Contract; and

37.3.4 The procedure for the evaluation of Quotations.

37.4 Quotations received in accordance with the instructions contained in the RfQ (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the RfQ to make a decision on which Bidder (s), if any, will be awarded the Contract.

38. Targeted Quotation

38.1 The Procuring Officer must obtain four written Quotations of which at least two shall be from Local Bidders. Where this is not reasonably practical, the Procuring Officer must make a file note to evidence reasonable effort to obtain the required Quotations.

38.2 The Procuring Officer must log all details of the Quotations or other responses for future reference.

38.3 The Evaluation Panel may make the decision on whether or not to award the Contract after considering all offers and shall keep a written record of their decision including reasons for the decision.

39. Competition for Funding

39.1 The Competition for Funding process is to be used for where the Council has an amount of funding to support the achievement of certain outcomes or delivery of services.

39.2 The Procuring Officer must advertise the Competition for Funding for an appropriate period of time to allow interested parties to respond.

39.3 A Competition for Funding (CFF) document must be made available to all interested parties who respond to the Advertisement. The CFF must contain or identify:

39.3.1 Instructions for the completion and return of Submissions;

39.3.2 A Specification setting out the Council requirements;

39.3.3 The proposed terms and conditions of Contract;

39.3.4 The procedure for the selecting successful Bidders, and allocating the available funding between them.

39.4 Submissions received in accordance with the instructions contained in the CFF (or as

otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the CFF to make a decision on which Bidder (s), if any, will be awarded the funding.

40. Open Tender

- 40.1 The Procuring Officer must advertise the requirement on the Source Leicestershire website (or other appropriate website) for an appropriate period of time to allow interested parties to respond.
- 40.2 An Invitation to Tender (ITT) document must be made available to all interested parties who respond to the Advertisement. The ITT must contain or identify:
 - 40.2.1 Instructions for the completion and return of Tenders;
 - 40.2.2 A Specification setting out the Council's requirements;
 - 40.2.3 The proposed terms and conditions of Contract; and
 - 40.2.4 The procedure for the evaluation of Tenders.
- 40.3 Tenders received in accordance with the instructions contained in the ITT (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the ITT to make a decision on which organisation(s), if any, will be awarded the Contract.
- 40.4 When using an Open Tender process for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.

41. Restricted Tender

- 41.1 The Procuring Officer must advertise the requirement on the Source Leicestershire website (or other appropriate website) for an appropriate period of time to allow interested parties to respond.
- 41.2 A Pre-Qualification Questionnaire (PQQ) document must be made available to all interested parties who respond to the Advertisement. The PQQ must contain or identify:
 - 41.2.1 Instructions for the completion and return of PQQs;
 - 41.2.2 A brief overview of the Council's requirements; and

41.2.3 The procedure for the evaluation of PQQs.

41.3 PQQs received in accordance with the instructions contained in the PQQ (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the PQQ to make a decision on which Bidders, if any, are to be invited to tender. For EU Contracts, a minimum of five Bidders must be selected to tender (unless fewer suitable candidates have met selection criteria and these are sufficient to ensure genuine competition).

41.4 An Invitation to Tender (ITT) document must be made available to all Bidders selected to be invited to Tender following the procedure set out above. The ITT must contain or identify:

41.4.1 Instructions for the completion and return of Tenders;

41.4.2 A Specification setting out the Council's requirements;

41.4.3 The proposed Terms and Conditions of Contract; and

41.4.4 The procedure for the evaluation of Tenders.

41.5 Tenders received in accordance with the instructions contained in the ITT (or as otherwise permitted by these Rules) will be evaluated by the Evaluation Panel in line with the procedure set out in the ITT to make a decision on which Bidder (s), if any, will be awarded the Contract.

41.6 When using a Restricted Tender process for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.

42. Innovation Partnership and Design Contest

42.1 An Innovation Partnership or Design Contest process may only be used with the approval of the Head of Procurement.

42.2 When using an Innovation Partnership or Design Contest process for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.

43. Competitive Procedure with Negotiation

43.1 A Competitive Procedure with Negotiation may only be used in the circumstances

set out in the Public Contracts Regulations 2015 and with the approval of the Head of Procurement and City Barrister.

- 43.2 When using a Competitive Procedure with Negotiation process for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.

44. Competitive Dialogue

- 44.1 A Competitive Dialogue process may only be used with the approval of the Head of Procurement and City Barrister.

- 44.2 When using a Competitive Dialogue process for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.

USE OF FRAMEWORK AGREEMENTS & DYNAMIC PURCHASING SYSTEMS

45. Value Categorisation of Framework Agreements & DPSs

45.1 Categorisation of Framework Agreements and DPSs will follow that set out in Rule 15.6 for Contracts. The Estimated Value should consider the total expected value of all Call-Off Contracts over the maximum duration of the Framework Agreement by all organisations who may use the Framework Agreement or DPS.

46. LCC Framework Agreements

46.1 Where the Council is the contracting authority, the Framework Agreement must be established by following these Contract Procedure Rules as if it were a Contract.

46.2 The Framework Agreement must set out a methodology for how contracts under the Framework Agreement will be called off. Completion of this process will replace the procedures required by these Rules for Call-Off Contracts.

46.3 Additional Contractors may only be added to a Framework Agreement during the term of the Framework Agreement in circumstances where:

46.3.1 it is not an EU Contract or the Framework Agreement is for Services listed in Schedule 3 to the Public Contracts Regulations 2015; and

46.3.2 the Invitation to Tender states:

a) that additional organisations may be added to the Framework Agreement during the term of the Framework Agreement;

b) how and when additional organisations can apply to be added to the Framework Agreement; and

c) that the same evaluation criteria and award methodology are applied when deciding whether to award the Framework Agreement to additional organisations as was applied at the time of the original award.

47. Non-LCC Framework Agreements

47.1 The Council may use Framework Agreements set up by other public authorities or Central Purchasing Bodies where the Framework Agreement entitles the Council to do so, subject to the approval of the Head of Procurement. Such approval is not required for Minor Contracts.

47.2 Where the Council's Call-Off Contract is itself a Large Contract or an EU Contract, the City Barrister must authorise the use of the Framework Agreement.

47.3 The Procuring Officer must follow the methodology and all requirements set out in the Framework Agreement when awarding a Call-Off Contract under the Framework Agreement.

48. Dynamic Purchasing Systems (DPSs)

48.1 A Dynamic Purchasing System may only be established with the approval of the Head of Procurement.

48.2 A Dynamic Purchasing System must be established and used in accordance with the Public Contracts Regulations 2015.

CONDUCTING A PROCUREMENT PROCESS

49. Fairness & Equal Treatment

- 49.1 The Procuring Officer must give all Bidders the same information about the proposed Contract and procurement process and in particular information relating to the Tender/Quotation process, Specification, award methodology and evaluation criteria.
- 49.2 The Procuring Officer must ensure that all processes set out in the procurement documentation issued to Bidders are followed.
- 49.3 Between the Advertisement and deadline for receipt of Submissions or where no Advertisement is placed (e.g. in the second stage of a Restricted Tender procedure or in a Targeted Quotation procedure), the issue of documents to Bidders), the Procuring Officer may respond to questions of clarification received from Bidders, but must ensure that Rule 49.1 is complied with, to the extent that any response given to one Bidder may be relevant to other Bidders.

50. Advertisement

- 50.1 Wherever stated in the Procurement Procedures section above, procurement procedures must be advertised on the Source Leicestershire website. This website may be substituted with another appropriate advertising medium at the discretion of the Head of Procurement.
- 50.2 Advertising on Source Leicestershire is a minimum requirement and does not preclude further Advertisement as deemed appropriate by the Procuring Officer (e.g. in the local newspaper, trade or professional journal, the Council website).
- 50.3 For all procurement procedures that are advertised, the Procuring Officer must allow a reasonable time between the date of the Advertisement (or where no Advertisement is placed (e.g. in the second stage of a Restricted Tender procedure or in a Targeted Quotation procedure), the issue of documents to Bidders) and the deadline for receipt of Submissions, having regard to:
 - 50.3.1 the requirements of the Public Contracts Regulations 2015;
 - 50.3.2 the amount of effort likely to be required to make a Submission; and
 - 50.3.3 the urgency of the requirement.
- 50.4 The Advertisement must express the nature and purpose of the procurement

procedure, stating where further details may be obtained.

- 50.5 For Contracts where the Public Contracts Regulations 2015 require an Advertisement to be placed in the OJEU and/or on Contracts Finder, the Procuring Officer must ensure that such Advertisements are placed compliantly.
- 50.6 For EU Contracts where an OJEU Contract Notice is required, the Procuring Officer must ensure that the Advertisement is first despatched to the OJEU before it is published on Source Leicestershire or in any other media.
- 50.7 No Advertisement should contain any more information than that published in the OJEU (if an OJEU Contract Notice is required).
- 50.8 For EU Contracts, the Procuring Officer may use a Prior Information Notice (PIN) followed by an Invitation to Confirm Interest in place of an OJEU Contract Notice, as permitted by the Public Contracts Regulations 2015.

51. Specification

- 51.1 The Specification must be a clear written statement of the Goods, Services or Works required, in sufficient detail to:
 - 51.1.1 enable the Bidder to submit a competitive price, demonstrating quality and added value;
 - 51.1.2 ensure that Goods, Services or Works supplied will meet the requirement of the Council; and
 - 51.1.3 define the precise output and/or outcomes required.
- 51.2 Unless justified by the subject matter of the Contract, the Specification shall not refer to a specific make or source, or a particular process which characterises the Goods, Services or Works provided by a specific organisation, or to trade marks, patents, types or a specific origin or production with the effect of favouring or eliminating certain organisations or certain products. Such reference shall be permitted on an exceptional basis, where a sufficiently precise and intelligible description of the subject-matter of the Contract is not possible and this is agreed by the Commissioning Officer and the Procuring Officer. Such reference shall be accompanied by the words 'or equivalent'.

52. Opening of Submissions

- 52.1 The PQQ, RfQ, CFF or ITT must specify the latest day and hour for the receipt of Submissions.

- 52.2 Wherever possible, the Procuring Officer should use the Electronic Tendering System for the receipt of Submissions.
- 52.3 For Large and EU Contracts, where the Electronic Tendering System is not used:
- 52.3.1 Tenders must be returned to an officer designated by the Head of Procurement. The Designated Officer must have no other involvement in the procurement process.
- 52.3.2 Tenders must be received in a plain sealed envelope or parcel addressed to the Designated Officer. The envelope or package must bear the word "Tender" followed by the subject to which it relates.
- 52.3.3 On receipt, envelopes containing Tenders must be date and time stamped by the Designated Officer and shall remain in the Designated Officer's secure custody until they are opened, which shall not be before the stated closing date/time.
- 52.3.4 The Designated Officer must open the Tenders at one time in the presence of at least one other officer. Each officer must initial each Tender once opened which must also be date stamped.
- 52.3.5 Particulars of all Tenders opened must be entered by the Designated Officer upon a written record which must be signed by the officers present at the opening, together with a written note of any Tenders rejected at the point of opening and the reasons for their rejection.
- 52.3.6 The Designated Officer must retain a copy of the record and forthwith send a copy to the Procuring Officer with the Tenders.
- 52.4 For Quotations, completed CFFs and Tenders not covered by Rule 52.3 above, where the Electronic Tendering System is not used:
- 52.4.1 Submissions must be returned to an officer designated by the Head of Procurement. The Designated Officer must have no other involvement in the procurement process.
- 52.4.2 On receipt, envelopes containing Tenders must be date and time stamped by the Designated Officer and shall remain in the Designated Officer's secure custody until they are opened, which shall not be before the stated closing date/time.
- 52.5 Where Submissions are received by e-mail, the requirement in Rules 52.3 and 52.4 for date and time stamping, and initialling is removed, and the requirements for labelling envelopes should be applied to the subject of the e-mail instead.

- 52.6 Where the Electronic Tendering System is not used, completed PQQs may be returned directly to the Procuring Officer.
- 52.7 The Head of Procurement may authorise the acceptance of Submissions received via the Electronic Tendering System after the stated date and time where:
- 52.7.1 there is clear evidence of technical issues preventing the Bidder sending their Submission ahead of the deadline, as acknowledged by the provider of the Electronic Tendering System; and
- 52.7.2 the Bidder gains no other advantage through the acceptance of their Submission.
- 52.8 Where the Electronic Tendering System has not been used a Submission received after the closing date and time may be opened and evaluated if there is clear evidence of it having:
- 52.8.1 been posted by first class post at least a day before the closing date; or
- 52.8.2 been posted by second class post at least three days before the closing date; or
- 52.8.3 been placed in the custody of a courier who has provided reasonable written assurance of delivery prior to the closing date and time.
- 52.9 Submissions not received in compliance with the Rules set out for Bidders will be rejected, except where the City Barrister considers that there are exceptional circumstances and that the Bidder who made the Submission has gained no advantage from its non-compliance, he may determine to accept the Submission and authorise that it be opened and evaluated together with any other Submissions. The City Barrister shall record in writing the reasons, which must be consistent with the application of public procurement law, for which the Submissions has been accepted. Any such reason shall not be deemed to set any precedent.

53. Reserved Contracts

- 53.1 The Procuring Officer may reserve a Contract for sheltered workshops, mutuals or social enterprises (or similar) as long as this is clearly set out in all appropriate documentation, including the Advertisement. Where an EU Contract is reserved for sheltered workshops, mutuals or social enterprises, the approval of the Head of Procurement and City Barrister must be sought and the criteria and processes set out in Regulation 20 or Regulation 77 of the Public Contracts Regulations 2015 must be followed.

54. Clarification of Submissions

- 54.1 Bidders are not permitted to alter their Submissions after opening save in accordance with the instructions provided to Bidders, this Rule or Rule 55 below.
- 54.2 Following the closing date for receipt of Submissions but before acceptance/shortlisting of any Submission, the Procuring Officer may correspond or discuss with Bidders in order to seek clarification of its Submission.
- 54.3 A written note of the discussions must be made to record the date, time, and detail of the discussion. Where the Electronic Tendering System is being used, clarification should be conducted via or recorded on the Electronic Tendering System.
- 54.4 Any clarification of Submissions during a procurement process must always ensure fair and equal treatment of all Bidders is maintained. Clarification of Submissions is at the Council's discretion.

55. Negotiation

- 55.1 Subject to the prior written approval of the Head of Procurement, for all Contracts except EU Contracts, following the closing date for receipt of Submissions, but before acceptance of any Submissions, the Procuring Officer in consultation with the Commissioning Officer may negotiate with the Bidder (s) in an attempt to secure improvements in the price or economic advantage.
- 55.2 When conducting negotiations, the following rules shall apply:
 - 55.2.1 At no time during the negotiations must a Bidder be informed of the detail of any other Submission or as to whether or not the Tender he submitted was the lowest.
 - 55.2.2 During negotiations in person there must always be present at least two officers of the Council.
 - 55.2.3 A written note of the negotiations must be made and retained by one of the officers' present recording those present, the time and location of the negotiations, detail of the discussion and any agreement reached.
 - 55.2.4 Post-tender negotiations shall not enable any material departure from the published Specification and/or Contract terms. The City Barrister, in consultation with the Head of Procurement and appropriate Divisional Director, shall determine whether any proposed change to the Specification constitutes a material departure and whether as a consequence other Bidders shall be permitted to participate in negotiations and/or whether new Tenders should be invited, to avoid any potential allegations of competition being distorted.

55.3 Post-tender negotiations are not allowed for EU Contracts; however, clarifications of errors or discrepancies in Tenders may take place in accordance with Rule 54.

56. Standstill Period

56.1 For Tenders for EU Contracts, the Procuring Officer must notify all Bidders who are required to be notified under Regulation 86 of the Public Contracts Regulations 2015 of the decision regarding the acceptance or rejection of their Tender, including:

56.1.1 the successful Bidder's score;

56.1.2 the score (if any) of the Bidder receiving the notice;

56.1.3 the characteristics and (if appropriate) relative advantages of the successful Bidder's Tender;

56.1.4 any reasons why the Bidder receiving the notice did not meet the Specification;

56.1.5 the name of the Bidder to be awarded the Contract, and

56.1.6 the date when the Standstill Period required in accordance with Rule 56.2 will come to an end.

A Standstill Period may be applied to Large Contracts and Call-Off Contracts from Framework Agreements that themselves constitute EU Contracts.

56.2 For EU Contracts, the Standstill Period must last a minimum of 10 calendar days from the day of sending the notice in Rule 57 to the date on which the Council enters into the Contract, if the notice is sent electronically. Where the notice is sent by other means, then the Standstill Period must last a minimum of either 15 days from the day of sending the notice or 10 days from the day of receipt of the notice by the last Bidder to receive the notice. In all cases counting the day after sending the notice as day one. The Standstill Period must end on a Working Day.

56.3 If, during the Standstill Period, a formal challenge is received from a Bidder, the authorisation of the Head of Procurement and City Barrister to award the Contract must be sought.

57. Contract Award

57.1 Following the appropriate authorisation of a DPC (see Rule 28), and including, where applied, the completion of the Standstill Period, the Procuring Officer must notify the successful Bidder(s) of the acceptance of their Submission.

- 57.2 For Intermediate, Large and EU Contracts the Procuring Officer must also notify in writing all unsuccessful Bidders at the same time as the successful Bidder(s).
- 57.3 For Contracts for which the Public Contracts Regulations 2015 stipulate that an OJEU and/or Contracts Finder Contract Award Notice is required, the Procuring Officer shall ensure that such Award Notice(s) is/are placed within the timescales required by the Public Contracts Regulations 2015.
- 57.4 The Procuring Officer must ensure that all Intermediate, Large and EU Contracts are entered onto the Contracts Database.

CONTRACT MANAGEMENT & CONTRACT AMENDMENTS

58. Contract Management

- 58.1 The appropriate Divisional Director must ensure that for each Intermediate, Large or EU Contract, a person is designated as the Contract Manager. The Contract Manager may be a Council officer or a Contractor/consultant. The Commissioning Officer may be, but need not be, the Contract Manager.
- 58.2 The Contract Manager is responsible for managing the performance of the Contract and the Contractor (s) throughout the Contract period, including ensuring that Best Value is obtained and that the Council and Contractor both fulfil their respective obligations under the Contract.

59. Financial Parameters for Contract Amendments

- 59.1 When considering Contract Extensions and Variations as set out in Rules 60 and 61 below the categorisation of a Contract should follow the table at Rule 15.6 but the value should include the value for the original period of the contract and any proposed extension or variation (including any further options for additional extensions/variations) whether provided for in the original Contract or not.

60. Contract Extensions

- 60.1 Where a Minor, Small or Intermediate Contract provides for the proposed extension, the appropriate Head of Service shall be authorised to extend the period of the Contract. The Head of Service must inform the Head of Procurement of the extension.
- 60.2 Where a Large or EU Contract provides for the proposed extension, the appropriate Divisional Director shall be authorised to extend the period of the Contract in consultation with the Head of Procurement.
- 60.3 Where a Minor or Small Contract does not provide for the proposed extension, the appropriate Divisional Director shall be authorised to extend the period of the Contract. The Divisional Director must inform the Head of Procurement of the extension.
- 60.4 Where an Intermediate Contract does not provide for the proposed extension, the appropriate Divisional Director shall be authorised to extend the period of the Contract in consultation with the Head of Procurement and City Barrister so long as this does not give cause to an increase in value of more than 100% of the original Contract Value. If the proposed extension will give cause to an increase to the original Contract

Value of more than 100% the Divisional Director must seek the authorisation of the Head of Procurement and City Barrister.

60.5 Where a Large Contracts does not provide for the proposed extension, the appropriate Divisional Director shall seek authorisation to extend the period of the Contract from the Head of Procurement and City Barrister.

60.6 Where an EU Contract does not provide for the proposed extension, the appropriate Divisional Director shall seek authorisation to extend the period of the Contract from the Head of Procurement and City Barrister.

61. Contract Variations

61.1 No variation may be authorised under this Rule that alters the overall nature of the Contract. When authorising all variations, the officer(s) must have due regard to transparency and openness of procurement and to value for money of the proposed variation.

61.2 The Contract Manager may make changes to the Contract or delivery of the Contract where these have been explicitly foreseen within the terms of the Contract or where changes are of a minor nature and will not significantly affect the overall delivery or cost of the Contract. The Contract Manager must retain both parties' written agreement to the change which must include details of the change.

61.3 The appropriate Head of Service shall be authorised to vary a Minor, Small or Intermediate Contract. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter. The Head of Service must inform the Head of Procurement of the variation.

61.4 The appropriate Divisional Director shall be authorised to vary a Large Contracts, so long as this does not give cause to an increase in value of more than 50% of the original Contract Value, whether caused by this one variation or the aggregation of this variation with ones that have previously been authorised. In such cases the Divisional Director must inform the Head of Procurement of the variation. If the proposed variation will give cause to an increase to the original Contract Value of more than 50% the Divisional Director must seek the authorisation of the Head of Procurement. This authorisation must be issued before the Goods/Services/Works that are the subject of the Variation are provided/carried out, or in the case of an emergency, immediately thereafter.

61.5 The appropriate Divisional Director shall be authorised to vary an EU Contract, so long as this does not give cause to an increase in value of 10% or more (15% for Works Contracts) of the original Contract Value, whether caused by this one variation or the aggregation of this variation with ones that have previously been authorised. In such

cases the Divisional Director must inform the Head of Procurement of the variation. If the proposed variation will give cause to an increase to the original Contract Value of 10% or more (15% for Works Contracts) the Divisional Director must seek the authorisation of the Head of Procurement and City Barrister ensuring the Council remains within the provisions of the Public Contracts Regulations 2015. This authorisation must be issued before the Goods/Services/Works that are the subject of the Variation are provided/carried out, or in the case of an emergency, immediately thereafter.

62. Novation of Existing Contracts

62.1 The novation of a Contract from/to the Council or to a new Person (in place of the Council or in place of another party to the Contract) requires the prior written approval of the City Barrister. The novation of a Contract must be agreed in writing between the parties. The Head of Procurement must be informed of the novation.

63. Early Termination of Contracts

63.1 Following consultation with the City Barrister and Head of Procurement the Divisional Director shall be authorised to terminate any Contract before the expiry of its agreed term or the provision of the Goods, Works or Services is complete.

64. Execution of Contract Amendments

64.1 For Small and Intermediate Contracts, the Contract Manager must complete a DPC detailing the Contract Amendment for the appropriate authorisations. Once the DPC is appropriately authorised, the Contract Manager may confirm the Contract Amendment in writing to the Contractor (s), so long as the Contract Manager is authorised to do so under Article 15 of the Constitution. If the Contract Manager is not authorised to do so, another officer, so duly authorised may do so.

64.2 For Large Contracts and EU Contracts the Contract Manager must complete a DPC for the appropriate authorisations detailing the Contract Amendment. Once the DPC is appropriately authorised, Legal Services may issue the Contract Documents to the Contractor (s) for signature.

APPENDIX 1: DEFINITIONS

Terms defined in the Public Contracts Regulations 2015 have the same meaning when used in these Rules.

Terms defined in the Council's Constitution have the same meaning when used in these Rules. Where a job title is used and that job title is no longer appropriate, the Chief Operating Officer will identify the postholder to replace the stated job title. To ensure effective operation of these rules, the Head of Procurement and City Barrister may delegate their responsibilities under these Rules to appropriately skilled officers.

Other terms are defined by these Rules.

In all of the above cases, hyperlinks are provided to the appropriate definition wherever the term is used.

Where necessary, additional definitions are provided below:

“Best Value” A statutory framework that ensures that Councils are required to plan, deliver and continuously improve local authority services. Each local authority has a duty to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

“Bidder” means a person or organisation who responds to an Advertisement or invitation and participates in a procurement procedure to win a Contract.

“Call-Off Contract” – a Contract based on a “Framework Agreement” or DPS.

“Commissioning Officer” means a person appointed by a Head of Service or Chief Officer to identify and specify the requirement, and provide specialist service/technical input into the Procurement Procedure.

“Contract” means an agreement between the Council and a Contractor comprising the conditions of Contract, Specification and any defined schedules or other matters referred to in the ITT/RfQ and/or the Contractor's Submission.

“Contract Manager” means a person appointed by a Head of Service or Chief Officer to manage the performance of a Contract throughout its Contract period.

The duties of a Contract Manager shall begin when the Contract is awarded and shall cease when it is completed or terminated.

“Council” means Leicester City Council.

“Contractor” means any person or organisation contracted to sell, provide or buy Goods, Service or Works. This term applies after a Contract is formed.

“Electronic Tendering System” means any IT system approved for use by the Head of Procurement via which a procurement process can be conducted.

“EU Threshold” means the relevant threshold set out in Regulation 5(1)(a), (c) or (d) of the Public Contracts Regulations 2015

“Evaluation Panel” means the Procuring Officer, the Commissioning Officer and any other individuals designated by them to participate in evaluating Submissions. All such individuals must have the relevant skills and experience to make value judgements on the Submissions received. For Large and EU Contracts, the Evaluation Panel must include at least one other officer to evaluate the technical quality elements of the Submission in addition to the Commissioning Officer.

“Goods” means the subject of a Public Supply Contract.

“Grant” means a sum of money awarded following the receipt of a successful application against published criteria. The issue of funds will be reliant on the entering into of an agreement and the submission to published compliance and monitoring criteria.

“Local” means a business having a base from which the Goods/Services/Works will be delivered with a LE postcode.

“OJEU” means the Official Journal.

“Procuring Officer” means a person appointed by the Head of Procurement for the purpose of carrying out the appropriate duties set out in these Contract Procedure Rules. A Procuring Officer may be appointed specifically for the purpose of a single Contract or for a range of Contracts.

“Quotation” means a completed RfQ (or similar Submission from a Bidder), and any attached documents submitted by a Bidder as part of a procurement procedure.

“Services” means the subject of a Public Service Contract.

“Specialist Procurement Teams” Procurement Services (Finance Division), ICT Contract & Procurement Team (Information and Access Division) and Social Care & Public Health Procurement Team (Care Services and Commissioning Division).

“Specification” means a clear written statement of the Goods, Services or Works, in sufficient detail to:

- a) enable the Bidder to submit a competitive price, demonstrating quality and added value.
- b) ensure that Goods, Services or Works supplied will meet the requirement of the Council.
- c) define the precise output and/or outcomes required.

“Submission” means a completed, CFF, ITT, RfQ, PQQ or other similar document submitted by a Bidder as part of a procurement procedure.

“Tender” means a completed ITT, and any attached documents submitted by a Bidder as part of a procurement procedure.

“Works” means the subject of a Public Works Contract.

APPENDIX 2: INTERPRETATION OF THE CONTRACT PROCEDURE RULES FOR MAINTAINED SCHOOLS

Part 1: Interpretation of the Rules for Schools

1. Scope & Definitions

- 1.1 The Contract Procedure Rules apply to Maintained Schools, but not to Academies (including Free Schools).
- 1.2 The Contract Procedure Rules, as amended by this Appendix, shall form part of the Scheme for Financing Schools.
- 1.3 All references to officers and staff of the Council shall be interpreted to cover all employees in schools (including Teachers and Head Teachers) and Governors.
- 1.4 The following terms will be substituted when interpreting these Rules for Schools:
 - 1.4.1 'City Barrister' shall be replaced by 'Chair of Governors' except in Rules 20 and 21;
 - 1.4.2 'Council' shall be replaced by 'School' except the first reference in Rule 1.1;
 - 1.4.3 'Divisional Director' shall be replaced by 'Chair of Governors';
 - 1.4.4 'Head of Procurement' shall be replaced by 'Chair of Governors' except in Rules 20 and 21;
 - 1.4.5 'Head of Finance' shall be replaced by 'Head Teacher';
 - 1.4.6 'Head of Service' shall be replaced by 'Head Teacher';
 - 1.4.7 'member' shall be replaced by 'Governor';
 - 1.4.8 'officer' shall be replaced by 'School Employee';

It is recognised that this may lead to (for example) the Head Teacher consulting with him/herself (etc.) but these references are maintained for consistency with the Council's Rules, and may be applicable should the Head Teacher choose to delegate some of his responsibility, (e.g. those of the Divisional Director in the Council's Rules).

- 1.5 It is acknowledged that Schools may not have specialist procurement staff, and therefore it is the Chair of Governors' responsibility to ensure that the School Employees who carry out these duties have access, where necessary, to appropriate support, guidance and professional advice to follow these Rules and act lawfully. The Council may provide its own internal guidance for the use of Schools and provide initial advice and support.

Part 2: Amended Rules for Schools

The following Rules are amended for Schools as set out below. All other Rules remain unchanged, except for the application of the interpretation set out in Part 1 above.

6. Transparency

6.1 This Rule does not apply to Schools.

10. Contracts Database & Electronic Tendering System

10.1 This Rule does not apply to Schools.

10.3 Schools may use an Electronic Tendering System, e-mail or traditional paper-based processes when carrying out procedures under these Rules.

14. Private Interests

14.2 to 14.3 Replace this Rule with “School Employees and Governors shall comply with the School’s codes of conduct and the requirements of the Scheme for Financing Schools, which includes the requirement for the Governing Body to maintain a register of business interests.”

15. Financial Parameters

15.2.7 Replace this Rule with “Each School may be considered to be a discrete operational unit when considering the aggregate value of a requirement, except when more than one school choose to procure jointly, at which stage the aggregate of all the schools procuring together must be considered.”

16. Procurement Plan

16.1-16.5 This Rule does not apply to Schools.

17. Procurement Pipeline

17.1 This Rule does not apply to Schools.

18. Procurement Strategy

18.1 This Rule does not apply to Schools.

19. Monitoring & Reporting

19.1 This Rule does not apply to Schools.

22. Financial Approval

22.1 Replace this Rule with “Before procurement of any Contract reaches the Advertisement stage, it must have financial approval from the appropriate officer, as set out in the table below:

Contract Categorisation	Financial Approval
Minor Contract	Budget Holder(s)
Small Contract	Head Teacher
Intermediate Contract	Chair of Governors
Large Contract	Chair of Governors
EU Contract	Chair of Governors

24. Exemptions & Waivers

24.1 The Commissioning Officer may request an Exemption to the Contract Procedure Rules to directly negotiate the award of a Contract without competition:

24.1.3 particular artistes and performers and bought-in productions; [other sub-paragraphs remain unchanged]

24.2 When none of the circumstances listed in Rule 24 applies, the Commissioning Officer may, request a Waiver of the Contract Procedure Rules.

24.3 The following table sets out who may authorise Exemptions and Waivers.

Contract Categorisation	Exemption	Waiver
Minor Contract	Head Teacher	Head Teacher
Small Contract	Head Teacher	Chair of Governors
Intermediate Contract	Chair of Governors	Chair of Governors
Large Contract	Chair of Governors	Chair of Governors
EU Contract	Chair of Governors	City Barrister

24.4 This Rule does not apply to Schools.

27. **Contract Terms**

27.2 Replace this Rule with “For all Contracts, the Procuring Officer may use, as appropriate:

27.2.1 Appropriate Industry Standard Contract Templates, e.g. NASS, JCT or NEC; or

27.2.2 The Council’s Standard Contract Templates for the appropriate type of Contract; or

27.2.3 Contract Terms developed for the Contract and approved by the Head Teacher.”

27.3 This Rule does not apply to Schools.

28. **Execution of Contracts**

28.1 to 28.4 This Rule does not apply to Schools. Replace with “Employees so authorised by the Head Teacher may sign Contracts on behalf of the School on completion of an appropriate procurement procedure as set out in these Rules.”

28.5 Replace this Rule with “Contracts with a value of over £60,000 per annum and a total value over £1,000,000 must be approved by the Head of Finance (Children’s Services) prior to being signed on behalf of the School.”

32. **Small Contracts**

32.1 This Rule does not apply to Schools.

33. **Intermediate Contracts**

33.1 This Rule does not apply to Schools.

34. **Large Contracts**

34.1 This Rule does not apply to Schools.

35. **EU Contracts**

35.2 This Rule does not apply to Schools.

52. Opening of Submissions

52.2 This Rule does not apply to Schools.

57. Contract Award

57.1 Replace this Rule with “After the completion of the Standstill Period, or, if no Standstill Period is applied, the Procuring Officer must notify the successful Bidder(s) of the acceptance of their Submission.”

57.4 This Rule does not apply to Schools.

64. Execution of Contract Amendments

64.1 Replace this Rule with “Once the Contract Amendment is appropriately authorised, the Contract Manager may confirm the Contract Amendment in writing to the Contractor(s), so long as the Contract Manager is so authorised to do so. If the Contract Manager is not authorised to do so, another officer, so duly authorised may do so.”

64.2 This Rule does not apply to Schools.