

Appendix A - Proposed Amendments to Part 4G – Contract Procedure Rules

Current Provisions	Proposed Amendments
<p align="center">RULE 1 Compliance</p> <p>Officers must comply with these Rules. Failure to do so may result in disciplinary action.</p>	<p align="center">RULE 1 Compliance</p> <p>(a) Officers must comply with these Rules. Failure to do so may result in disciplinary action.</p> <p>(b) Where a decision taken under these rules involves a key decision, this must be taken by the Executive. Key decisions are defined in Rule 8 of the Executive Procedure Rules (Part 4D) of this Constitution.</p> <p>(c) Sale of council assets are not part of these rules. They are covered by Rule 25 Purchasing and income collections and Rule 26 Inventories and assets of the Financial Procedure Rules (Part 4F) of the Constitution.</p>
<p align="center">RULE 5 General Requirements</p> <p>(a) Every Contract or official order for works, supplies or services made by the Council shall be for the purpose of implementing the Council’s policies and must be made in accordance with the Council's duty of Best Value and Commissioning and Procurement Strategy.</p> <p>(b) When proposing to procure or making arrangements for procuring a service contract where the Estimated Value is equal to or greater than the EU Threshold then consideration must be given as to how the Contract might improve the economic, social and environmental wellbeing of Leicestershire, as required by the Public Services (Social Value) Act 2012 (“Social Value Act”).</p> <p>(c) Where the services are Light-Touch Services the threshold for contracts for public supply or services contracts applies for the purposes of the Social Value Act, being the sum specified in regulation 5 (1) (d) of the Public Contracts Regulations 2015.</p> <p>(d) The Procuring Officer must ensure that whenever Corporate Contracts have been approved by a Commercial Specialist that supplies, services and works are ordered via these, unless it is agreed by the Commercial Specialist that better value for money can be clearly demonstrated outside of these approved Corporate Contracts. All such instances involving ESPO must be notified to ESPO by the Commercial Specialist.</p>	<p align="center">RULE 5 General Requirements</p> <p>(a) Every Contract or official order for works, supplies or services made by the Council shall be for the purpose of implementing the Council’s policies and must be made in accordance with the Council's duty of Best Value and in line with the Council’s Strategic Plan 2018-2022.</p> <p>(b) (i) Social Value will be embedded in any contract with an estimated value equal to or greater than £50,000 in one of the of the following two ways:</p> <ul style="list-style-type: none"> • As award criteria linked to the Council’s Social Value Policy Statement and the Council’s Strategic Plan 2018 – 2022; • As Outcomes built into the Specification or contract. <p>(ii) Social Value will be addressed at contract management for any contract with a value equal to or greater than £50,000.</p> <p>(iii) Where Social Value has not been embedded within either the tender process or specification, the reason shall be recorded and forwarded to the relevant Commercial Specialist.</p> <p>(c) Where the services are Light-Touch Services the threshold for contracts for public supply or services contracts applies for the purposes of the Social Value Act, being the sum specified in regulation 5 (1) (d) of the Public Contracts Regulations 2015.</p>

<p>(e) Procedures set out in the relevant EU Directives, EU Treaties, Acts of Parliament and UK legislation (including for the avoidance of doubt the Public Contracts Regulations 2015 the Concession Contracts Regulations 2016, and where applicable the Public Contracts Regulations 2006) must be complied with at all times.</p> <p>(f) Based on criteria laid down by the Executive, the Chief Finance Officer will be responsible for evaluating the financial status of Tenderers and suppliers.</p> <p>(g) The Procuring Officer must ensure that sufficient budget provision has been agreed with the budget holder prior to any Procurement Exercise being undertaken.</p> <p>(h) Procurement Exercises should usually be undertaken by electronic means provided that:-</p> <p>(i) the requirements of these Rules are followed with only such modifications as may be necessary to allow for procurement by such means; and</p> <p>(ii) any electronic tendering system has been approved by the Director of Law and Governance following consultation with the Director of Corporate Resources.</p> <p>(i) Subject to the provisions of Rule 28(b) Contracts shall not be longer than 5 years (including extensions) in duration or of indeterminate length without the prior written approval of the Director of Corporate Resources, such approval to be obtained prior to the commencement of the Procurement Exercise.</p>	<p>(d) The Procuring Officer must ensure that whenever Corporate Contracts have been approved by a Commercial Specialist that supplies, services and works are ordered via these, unless it is agreed by the Commercial Specialist that better value for money can be clearly demonstrated outside of these approved Corporate Contracts. All such instances involving ESPO must be notified to ESPO by the Commercial Specialist.</p> <p>(e) Procedures set out in the relevant EU Directives, EU Treaties, Acts of Parliament and UK legislation (including for the avoidance of doubt the Public Contracts Regulations 2015 the Concession Contracts Regulations 2016, and where applicable the Public Contracts Regulations 2006) must be complied with at all times.</p> <p>(f) Based on criteria laid down by the Executive, the Chief Finance Officer will be responsible for evaluating the financial status of Tenderers and suppliers.</p> <p>(g) The Procuring Officer must ensure that sufficient budget provision has been agreed with the budget holder prior to any Procurement Exercise being undertaken.</p> <p>(h) Procurement Exercises should usually be undertaken by electronic means provided that:-</p> <p>(i) the requirements of these Rules are followed with only such modifications as may be necessary to allow for procurement by such means; and</p> <p>(ii) any electronic tendering system has been approved by the Director of Law and Governance following consultation with the Director of Corporate Resources.</p> <p>(i) Subject to the provisions of Rule 28(b) Contracts shall not be longer than 5 years (including extensions) in duration or of indeterminate length without the prior written approval of the Director of Corporate Resources, such approval to be obtained prior to the commencement of the Procurement Exercise.</p>
<p style="text-align: center;">RULE 6</p> <p style="text-align: center;"><i>Exceptions</i></p> <p>(a) Subject to the requirements of EU Directives, EU Treaties, Acts of Parliament and the Public Contracts Regulations 2015, and the Concession Contracts Regulations 2016, the following contracts may be placed by direct negotiation with one or more suppliers, contracts:-</p>	<p style="text-align: center;">RULE 6</p> <p style="text-align: center;"><i>Exceptions</i></p> <p>(a) Subject to the requirements of EU Directives, EU Treaties, Acts of Parliament and the Public Contracts Regulations 2015, and the Concession Contracts Regulations 2016, the following contracts may be placed by direct negotiation with one or more suppliers, contracts:-</p>

(i) for supplies, materials, services or works which are available only as proprietary and/or patented articles, services or works from one contractor or supplier and/or for which the appropriate Chief Officer, on the advice of the Commercial Specialist, decides that 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; a note of that decision and the reasons for it must be retained on the appropriate file and where the contract is equal to or exceeds £181,302 a copy of the note and reasons must be provided to the Director of Corporate Resources and the Director of Law and Governance.

(ii) for works of art, museum specimens or historical documents;

(iii) which constitute a variation or extension of an existing contract, as permitted by the contract and/or the Council's Standard Financial Instructions subject to the provisions of Rule 30 (Contract Modifications and Extensions) and Rule 31 (Novation of Existing Contracts);

(iv) for the following social care services provided that the Estimated Value of such services does not exceed the EU threshold for Light-Touch service contracts:

aa. residential placements sought for an individual with a registered care provider of their choice;

bb. 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;

cc. social care packages managed by or on behalf of individual clients under the personalisation agenda;

dd. where certain needs of an individual (either an adult or a child) require a particular social care package, which is only available from a specific provider in the opinion of the appropriate Chief Officer.

ee. residential placements sought for an individual under the Shared Lives scheme (or any equivalent scheme).

In each case the appropriate Chief Officer must ensure that the provider 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 provider is maintained on the individual's case notes. A record of the annual cumulative expenditure with each provider will be maintained by each directorate and made available for audit.

(v) for those unforeseen emergencies, where immediate action is required in order

(i) for supplies, materials, services or works which are available only as proprietary and/or patented articles, services or works from one contractor or supplier **and for** which the appropriate Chief Officer, on the advice of the Commercial Specialist, decides that 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; a note of that decision and the reasons for it must be retained on the appropriate file and where the contract is equal to or exceeds £181,302 a copy of the note and reasons must be provided to the Director of Corporate Resources and the Director of Law and Governance.

(ii) for works of art, museum specimens or historical documents;

(iii) which constitute a variation or extension of an existing contract, as permitted by the contract and/or the Council's Standard Financial Instructions subject to the provisions of Rule 30 (Contract Modifications and Extensions) and Rule 31 (Novation of Existing Contracts);

(iv) for the following social care services provided that the Estimated Value of such services does not exceed the EU threshold for Light-Touch service contracts:

aa. residential placements sought for an individual with a registered care provider of their choice;

bb. 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 **and Care Act 2014**;

cc. social care packages managed by or on behalf of individual clients under the personalisation agenda;

dd. where certain needs of an individual (either an adult or a child) require a particular social care package, which is only available from a specific provider in the opinion of the appropriate Chief Officer.

ee. residential placements sought for an individual under the Shared Lives scheme (or any equivalent scheme).

In each case the appropriate Chief Officer must ensure that the provider meets the relevant national minimum standards, **legislative or otherwise**, (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 provider is maintained on the individual's case notes. A record of the annual cumulative expenditure with each provider will be maintained by each directorate and made available for audit.

(v) for those unforeseen emergencies, where immediate action is required in order to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004 **with**

<p>to fulfil the Council's statutory obligations under the Civil Contingencies Act 2004.</p> <p>(b) Other exceptions to these Rules may only be made within the relevant law and with the authority:-</p> <p>(i) of the appropriate Chief Officer in consultation with the relevant Commercial Specialist where the Estimated Value of the proposed contract is under £181,302. The appropriate Chief Officer shall maintain a record specifying the reason for all such departures; or</p> <p>(ii) of the Executive where it is satisfied that an exception is justified on its merits. In an urgent case the Chief Executive after consultation with the Council Leader or Deputy Leader (save where this is not practicable) may direct that an exception be made subject to this being reported to the next meeting of the Executive.</p> <p>(c) In all cases under Rule 6 a full record of the reasons for the exception shall be maintained.</p>	<p>the authority of the appropriate Chief Officer in consultation with the relevant Commercial Specialist.</p> <p>(b) Other exceptions to these Rules may only be made within the relevant law and with the authority:-</p> <p>(i) of the appropriate Chief Officer in consultation with the relevant Commercial Specialist where the Estimated Value of the proposed contract is under £181,302. The appropriate Chief Officer shall maintain a record specifying the reason for all such departures; or</p> <p>(ii) of the Executive where it is satisfied that an exception is justified on its merits. In an urgent case the Chief Executive after consultation with the Council Leader or Deputy Leader (save where this is not practicable) may direct that an exception be made subject to this being reported to the next meeting of the Executive.</p> <p>(c) In all cases under Rule 6 a full record of the reasons for the exception shall be maintained.</p>
<p style="text-align: center;">RULE 8</p> <p style="text-align: center;"><i>Annual Reporting</i></p> <p>The Director of Corporate Resources, in consultation with the Director of Law and Governance, shall at least once in each financial year submit a report to the Corporate Governance Committee in relation to the operation of these Rules, including, among other things, details of the approved exceptions to these Rules and approved extensions to contract where not provided for in the contract, and proposed revisions to these Rules and/or changes required to accommodate the requirements of UK and EU procurement law as may be necessary from time to time.</p>	<p style="text-align: center;">RULE 8</p> <p style="text-align: center;"><i>Annual Reporting</i></p> <p>The Director of Corporate Resources, in consultation with the Director of Law and Governance, shall at least once in each financial year submit a report to the Corporate Governance Committee in relation to the operation of these Rules, including, among other things, details of the approved exceptions to these Rules (except those granted under Rule 6(iv)) and approved extensions to contract where not provided for in the contract, and proposed revisions to these Rules and/or changes required to accommodate the requirements of UK and EU procurement law as may be necessary from time to time.</p>
<p style="text-align: center;">RULE 9</p> <p style="text-align: center;"><i>Prevention of Corruption / Conflict of Interest</i></p> <p>(a) The Employee Code of Conduct (Part 5b of the Constitution) applies to any Procurement Exercise.</p> <p>(b) The following clause, or a clause that is substantially similar, will be included as a standard term and condition in every written contract in accordance with Rule 25(c): "The Council may terminate this contract and recover all its loss from the Contractor if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:</p>	<p style="text-align: center;">RULE 9</p> <p style="text-align: center;"><i>Prevention of Corruption / Conflict of Interest</i></p> <p>(a) The Employee Code of Conduct (Part 5b of the Constitution) applies to any Procurement Exercise.</p> <p>(b) The following clause, or a clause that is substantially similar, will be included as a standard term and condition in every written contract in accordance with Rule 25(c): "The Council may terminate this contract and recover all its loss from the Contractor if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:</p>

<ul style="list-style-type: none"> (i) offer, give or agree to give to anyone any personal inducement or reward in respect of this or any other Council contract (even if the contractor does not know what has been done); or (ii) commit an offence under the Bribery Act 2010 or give any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972; or (iii) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees. <p>Any clause limiting the Contractor's liability shall not apply to this clause".</p>	<ul style="list-style-type: none"> (i) offer, give or agree to give to anyone any personal inducement or reward in respect of this or any other Council contract (even if the contractor does not know what has been done); or (ii) commit an offence under the Bribery Act 2010 or give any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972; or (iii) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees. <p>Any clause limiting the Contractor's liability shall not apply to this clause".</p> <p>(c) The Council's Supplier Code of Conduct 2018 applies to any Procurement Exercise.</p>
<p style="text-align: center;">RULE 9A</p> <p style="text-align: center;">Counter Terrorism and Security Act 2015</p> <p>Where appropriate, the Contract shall make appropriate provision for information sharing between the Contractor and the Council, and/or such other measures as are appropriate, such as staff training, to support the Council in meeting its duty under section 26 of the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism.</p>	<p style="text-align: center;">RULE 9A</p> <p style="text-align: center;">Counter Terrorism and Security Act 2015</p> <p>Where appropriate, the Contract shall make appropriate provision for information sharing between the Contractor and the Council in line with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018, and/or such other measures as are appropriate, such as staff training, to support the Council in meeting its duty under section 26 of the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism.</p>
<p style="text-align: center;">RULE 10</p> <p style="text-align: center;">Pre-Estimate</p> <ul style="list-style-type: none"> (a) Before any Procurement Exercise is begun the Procuring Officer must calculate its Estimated Value in accordance with this Rule. (b) The Estimated Value shall be calculated as follows: <ul style="list-style-type: none"> (i) Where the contract period is fixed the Estimated Value shall be the total estimated maximum value of the supplies, services or works to be supplied over the period covered including any extensions to the contract; (ii) Where the contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value by 48; 	<p style="text-align: center;">RULE 10</p> <p style="text-align: center;">Pre-Estimate</p> <ul style="list-style-type: none"> (a) Before any Procurement Exercise is begun the Procuring Officer must calculate its Estimated Value in accordance with this Rule. The estimated value for the Procurement must not be subdivided for the purpose of reducing the total value of the contract for multiple procurements. (b) The Estimated Value shall be calculated as follows: <ul style="list-style-type: none"> (i) Where the contract period is fixed the Estimated Value shall be the total estimated maximum value of the supplies, services or works to be supplied over the period covered including any extensions to the contract; (ii) Where the contract period is indeterminate the Estimated Value shall be calculated by multiplying the estimated average monthly value by 48;

<ul style="list-style-type: none"> (iii) For feasibility studies the Estimated Value shall be the value of the scheme or contracts which may be awarded as a result; (iv) For Concession Contracts the Estimated Value shall be the estimated financial value to the supplier that shall be made over the duration of the Contract, net of value added tax; (v) The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties; (vi) Periodic purchases for the same requirement, whether that is from the same or different suppliers, must be aggregated over a minimum of a 12 month period; (vii) Where the Council may be contributing only part of the Total Value of a contract, it is nevertheless the total Estimated Value that should be applied in determining the correct procedures to be applied under these Rules. <p>(c) Where there is any doubt as to the Estimated Value then the procedure for the higher threshold in Rule 11 must be used.</p> <p>(d) Where the Estimated Value is £10,000 or more the Procuring Officer must notify in writing the appropriate Commercial Specialist of the Estimated Value before proceeding. A written record of that Estimated Value must then be kept on file by the Procuring Officer.</p>	<ul style="list-style-type: none"> (iii) For feasibility studies the Estimated Value shall be the value of the scheme or contracts which may be awarded as a result; (iv) For Concession Contracts the Estimated Value shall be the estimated financial value to the supplier that shall be made over the duration of the Contract, net of value added tax; (v) The Estimated Value must exclude Value Added Tax (VAT) but must include all other taxes and duties; (vi) Periodic purchases for the same requirement, whether that is from the same or different suppliers, must be aggregated over a minimum of a 12 month period; (vii) Where the Council may be contributing only part of the Total Value of a contract, it is nevertheless the total Estimated Value that should be applied in determining the correct procedures to be applied under these Rules. <p>(c) Where there is any doubt as to the Estimated Value then the procedure for the higher threshold in Rule 11 must be used.</p> <p>(d) Where the Estimated Value is £5,000 or more the Procuring Officer must notify in writing the appropriate Commercial Specialist of the Estimated Value before proceeding. A written record of that Estimated Value must then be kept on file by the Procuring Officer.</p>
<p style="text-align: center;">RULE 11</p> <p style="text-align: center;"><i>Procurement Exercise Process</i></p> <ul style="list-style-type: none"> (a) Based on the Estimated Value, as identified in Rule 10, Table 1 below makes provision for the minimum requirements for the subsequent Procurement Exercise. (b) In the case of a contract for individual independent day or residential school placement sought for a child with Special Educational Needs (SEN) with an Estimated Contract Value up to the EU threshold for Light Touch Services three quotes must be sought. (c) All contracts with an Estimated Value equal to or greater than the EU threshold must be referred to the Commissioning Support Unit prior to the commencement of the Procurement Exercise. The Commissioning Support Unit shall advise the Procuring Officer on the appropriate route to market which may include the use of ESPO and ESPO framework agreements, Crown Commercial Services framework agreements, etc. 	<p style="text-align: center;">RULE 11</p> <p style="text-align: center;"><i>Procurement Exercise Process</i></p> <ul style="list-style-type: none"> (a) Based on the Estimated Value, as identified in Rule 10, Table 1 below makes provision for the minimum requirements for the subsequent Procurement Exercise. (b) In the case of a contract for individual independent day or residential school placement sought for a child with Special Educational Needs (SEN) with an Estimated Contract Value up to the EU threshold for Light Touch Services three quotes must be sought. (c) All contracts with an Estimated Value equal to or greater than the EU threshold must be referred to the Commissioning Support Unit prior to the commencement of the Procurement Exercise. The Commissioning Support Unit shall advise the Procuring Officer on the appropriate route to market which may include the use of ESPO and ESPO framework agreements, Crown Commercial Services framework agreements, etc.

Table 1: Minimum requirements for a Procurement Exercise (for exceptions see Rule 6):

Estimated Contract Value		Procurement Process	Minimum Contract Opportunity Publication	Documentation
From	Up To			
£0	£5,000	Obtain a minimum of one oral/written Quotation	None	Record details
Above £5,000	£25,000	Obtain three written Quotations (where practical)	When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the contract.*	Record details. (If three Quotations cannot be obtained a record of the reasons for this must be maintained and forwarded to the appropriate Commercial Specialist.) When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the Contract.
Above £25,000	Up to but not including £181,302	Seek written Quotations (to be based on a Request for Quotation document where practical) For exceptions see Rule 6(b)	Contracts Finder and on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.	Request for Quotation issued by the Procuring Officer and Quotations received.
Equal to or Above £181,302	To the relevant EU Threshold	Formal Tender Process (Refer to Commissioning Support)	OJEU where required, Contracts Finder and on a Website approved by the Director of Corporate Resources for the purpose of notifying the supply market.	Formal Tender and sealed bids (may be submitted via an electronic tendering system, see Rule 9(g)).

(d) Details of oral Quotations must be recorded in writing.

(e) Where any Corporate Contracts or Standing Lists have been set up for supplies, services or works then these Rules are deemed to have been satisfied when the arrangement was set up and do not have to be further applied, if appropriately used. When the Corporate Contract is a Framework Agreement then the Procuring Officer must comply with Rule 28(c). When using a Standing List the Procuring Officer must comply with Rule 27.

Table 1: Minimum requirements for a Procurement Exercise (for exceptions see Rule 6):

Estimated Contract Value		Procurement Process	Minimum Contract Opportunity Publication	Documentation
From	Up To			
£0	£5,000	Obtain a minimum of one oral/written Quotation	None	Record details
Above £5,000	£25,000	Obtain three written Quotations (where practical)	When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the contract.*	Record details. (If three Quotations cannot be obtained a record of the reasons for this must be maintained and forwarded to the appropriate Commercial Specialist.) When inviting quotations officers should consider the benefits of including a local supplier in the invitation to quote where appropriate or applicable to the Contract.

EU Threshold	Above	Formal Tender Process (Refer to Commissioning Support)	OJEU, Contracts Finder and on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.	Formal Tender and sealed bids (may be submitted via an electronic tendering system, see Rule 5(g)(ii)).	Above £25,000	Up to but not including £181,302	Seek written Quotations (to be based on a Request for Quotation document where practical) For exceptions see Rule 6	Contracts Finder and on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.	Request for Quotation issued by the Procuring Officer and Quotations received.
<p>* The Council cannot give preference to local suppliers, as there are legislative constraints and such a policy would be incompatible with Best Value. However, the Council recognises that there can be barriers limiting or restricting the ability of smaller suppliers to compete for Council business. The Council will seek to reduce the impact of such barriers, where it can do so legally, without discrimination, and without placing unacceptable levels of risk on the Council.</p> <p>(c) Details of oral Quotations must be recorded in writing.</p> <p>(d) Where any Corporate Contracts or Standing Lists have been set up for supplies, services or works then these Rules are deemed to have been satisfied when the arrangement was set up and do not have to be further applied, if appropriately used. When the Corporate Contract is a Framework Agreement then the Procuring Officer must comply with Rule 28(c). When using a Standing List the Procuring Officer must comply with Rule 27.</p>					Equal to or Above £181,302	To the relevant EU Threshold	Formal Tender Process (Refer to Commissioning Support)	OJEU where required, Contracts Finder and on a Website approved by the Director of Corporate Resources for the purpose of notifying the supply market.	Formal Tender and sealed bids (may be submitted via an electronic tendering system, see Rule 9(g)).
					Relevant EU Threshold	Above	Formal Tender Process (Refer to Commissioning Support)	OJEU, Contracts Finder and on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.	Formal Tender and sealed bids (may be submitted via an electronic tendering system, see Rule 5(h)(ii)).
					<p>* The Council cannot give preference to local suppliers, as there are legislative constraints and such a policy would be incompatible with Best Value. However, the Council recognises that there can be barriers limiting or restricting the ability of smaller suppliers to compete for Council business. The Council will seek to reduce the impact of such barriers, where it can do so legally, without discrimination, and without placing unacceptable levels of risk on the Council.</p>				
<p align="center">RULE 12</p> <p align="center">Suitability Assessment and Award Evaluation Criteria</p> <p>(a) The Council shall not include a pre-qualification questionnaire stage where the value of the procurement is below the EU Threshold set out in Reg. 5 (1) (c) of the Public Contracts Regulations 2015. Below the EU Threshold only Suitability Assessment Questions may be asked. A standardised form of Suitability Assessment Questions must be used.</p> <p>(b) In a Procurement Exercise with an estimated Value equal to or greater than the EU Threshold both selection and award criteria must be included. A Standardised Selection Questionnaire or the European Single Procurement Document must be used for the selection criteria;</p>					<p align="center">RULE 12</p> <p align="center">Suitability Assessment and Award Evaluation Criteria</p> <p>(a) The Council shall not include a pre-qualification questionnaire stage where the value of the procurement is below the EU Threshold set out in Reg. 5 (1) (c) of the Public Contracts Regulations 2015. Below the EU Threshold only Suitability Assessment Questions may be asked. A standard form of Suitability Assessment Questions must be used.</p> <p>(b) In a Procurement Exercise with an estimated Value equal to or greater than the EU Threshold both selection and award criteria must be included. A Standard Selection Questionnaire or the European Single Procurement Document must be used for the selection criteria;</p>				

<p>(c) Selection criteria must be included in the evaluation process where applying the Open Tendering procedure (Rule 15) or must be the only criteria used for the shortlisting methodology where applying the Restricted Tendering procedure (Rule 16).</p>	<p>(c) Selection criteria must be included in the evaluation process where applying the Open Tendering procedure (Rule 15) or must be the only criteria used for the shortlisting methodology where applying the Restricted Tendering procedure (Rule 16).</p>
<p style="text-align: center;">RULE 14</p> <p style="text-align: center;"><i>Contract Opportunity Publication</i></p> <p>(a) Unless otherwise agreed by the appropriate Chief Officer, the Procuring Officer must ensure, for all Procurement Exercises with an Estimated Value of £25,000 or more but less than the relevant EU Threshold, that Contract Opportunity Publication is given on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.</p> <p>(b) All Procurement Exercises with an Estimated Value of £25,000 or more must be advertised on Contracts Finder within 24 hours of the time when the Procurement Exercise is advertised in any other way. Procurement exercises over the relevant EU Threshold must be advertised in the OJEU and on Contracts Finder.</p> <p>(c) For all proposed contracts which are advertised where the Estimated Value is below the EU threshold, a period of at least ten working days should be allowed between the date when an Invitation to Tender becomes available to all bidders and either:</p> <p style="padding-left: 20px;">(i) the deadline for receipt of Tenders where an Open Tendering procedure is being used; or</p> <p style="padding-left: 20px;">(ii) the deadline for receipt of the Standardised Selection Questionnaire or the European Single Procurement Document, where a Restricted Tendering procedure is being used.</p> <p>(d) The Contract Opportunity Publication must express the nature and purpose of the Procurement Exercise, stating where further details may be obtained, how and to whom an interested supplier is to respond and any other requirements such as suitability requirements or explanatory information.</p> <p>(e) If the Estimated Value exceeds the relevant EU Threshold the Procuring Officer must ensure that Contract Opportunity Publication is first published in the OJEU and then on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market and in Contracts Finder.</p>	<p style="text-align: center;">RULE 14</p> <p style="text-align: center;"><i>Contract Opportunity Publication</i></p> <p>(a) Unless otherwise agreed by the appropriate Chief Officer, the Procuring Officer must ensure, for all Procurement Exercises with an Estimated Value of £25,000 or more but less than the relevant EU Threshold, that Contract Opportunity Publication is given on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market.</p> <p>(b) All Procurement Exercises with an Estimated Value of £25,000 or more must be advertised on Contracts Finder within 24 hours of the time when the Procurement Exercise is advertised in any other way. Procurement exercises over the relevant EU Threshold must be advertised in the OJEU and on Contracts Finder.</p> <p>(c) For all proposed contracts which are advertised where the Estimated Value is below the EU threshold, a period of at least ten working days should be allowed between the date when an Invitation to Tender becomes available to all bidders and either:</p> <p style="padding-left: 20px;">(i) the deadline for receipt of Tenders where an Open Tendering procedure is being used; or</p> <p style="padding-left: 20px;">(ii) the deadline for receipt of the Standard Selection Questionnaire or the European Single Procurement Document, where a Restricted Tendering procedure is being used.</p> <p>(d) The Contract Opportunity Publication must express the nature and purpose of the Procurement Exercise, stating where further details may be obtained, how and to whom an interested supplier is to respond and any other requirements such as suitability requirements or explanatory information.</p> <p>(e) If the Estimated Value exceeds the relevant EU Threshold the Procuring Officer must ensure that Contract Opportunity Publication is first published in the OJEU and then on a website approved by the Director of Corporate Resources for the purpose of notifying the supply market and in Contracts Finder.</p>

- (f) A Procurement Exercise that is equal to or more than the EU Threshold for Light-Touch Services must be procured in compliance with Chapter 3, section 7 of the Public Contracts Regulations 2015.
- (g) Only in exceptional circumstances should a Contract Opportunity Publication appear in ANY form before publication in the OJEU and neither should any advertisement contain any more information than that published in the OJEU.
- (h) The advertising requirements set out in this Rule 14 are minimum requirements and do not preclude further Contract Opportunity Publication where appropriate (e.g. in the local newspaper, trade or professional journal, the Council website).

- (f) A Procurement Exercise that is equal to or more than the EU Threshold for Light-Touch Services must be procured in compliance with Chapter 3, section 7 of the Public Contracts Regulations 2015.
- (g) Only in exceptional circumstances should a Contract Opportunity Publication appear in ANY form before publication in the OJEU and neither should any advertisement contain any more information than that published in the OJEU.
- (h) The advertising requirements set out in this Rule 14 are minimum requirements and do not preclude further Contract Opportunity Publication where appropriate (e.g. in the local newspaper, trade or professional journal, the Council website).

RULE 16

Restricted Tendering

- (a) Subject to Rule 16 (b), this Rule applies to Tenders where the Estimated Value is equal to or exceeds the EU Threshold.
- (b) Where the services being tendered are Light-Touch Services the Procuring Officer may choose to use this Restricted Tendering procedure but is not required to.
- (c) Under Restricted Tendering, Procuring Officers need only send Invitations to Tender to:
 - (i) not less than five of the Persons who respond to the Contract Opportunity Publication and who best meet the shortlisting methodology agreed in Rule 12(c); or
 - (ii) where fewer than five Persons have applied or are considered suitable, to all those Persons who equal or exceed the minimum requirements for the shortlisting methodology agreed in Rule 12(c).
- (d) The shortlisting criteria and process must be prepared (in consultation with the Commercial Specialist) in advance of the issue of the Standardised Selection Questionnaire or the European Single Procurement Document and a copy retained on file.
- (e) All Persons that do not qualify for inclusion on the shortlist to receive an Invitation to Tender must receive notice that they have been excluded from the Procurement

RULE 16

Restricted Tendering

- (a) Subject to Rule 16 (b), this Rule applies to Tenders where the Estimated Value is equal to or exceeds the EU Threshold.
- (b) Where the services being tendered are Light-Touch Services the Procuring Officer may choose to use this Restricted Tendering procedure but is not required to.
- (c) Under Restricted Tendering, Procuring Officers need only send Invitations to Tender to:
 - (i) not less than five of the Persons who respond to the Contract Opportunity Publication and who best meet the shortlisting methodology agreed in Rule 12(c); or
 - (ii) where fewer than five Persons have applied or are considered suitable, to all those Persons who equal or exceed the minimum requirements for the shortlisting methodology agreed in Rule 12(c).
- (d) The shortlisting criteria and process must be prepared (in consultation with the Commercial Specialist) in advance of the issue of the **Standard** Selection Questionnaire or the European Single Procurement Document and a copy retained on file.
- (e) All Persons that do not qualify for inclusion on the shortlist to receive an Invitation to Tender must receive notice that they have been excluded from the Procurement Exercise. Any Person requesting in writing the reasons why they were unsuccessful shall be informed by the Procuring Officer of the reasons for the Council's decision.

<p>Exercise. Any Person requesting in writing the reasons why they were unsuccessful shall be informed by the Procuring Officer of the reasons for the Council's decision.</p>	
<p style="text-align: center;">RULE 23 <i>Acceptance of Tenders</i></p> <p>(a) A Tender can only be accepted in accordance with the initial award methodology and evaluation criteria as set out in Rule 13. Any evaluation sheets must be maintained on file in accordance with Rule 34.</p> <p>(b) Any Tender with an Estimated Value of below £25,000 (where a Request for Quotation or an Invitation to Tender is not used) may only be accepted with the prior written approval of the appropriate Chief Officer.</p> <p>(c) If the Tender to be accepted exceeds the budget which was agreed in accordance with Rule 5(f) the Procuring Officer must ensure that sufficient funds are available and approved by the appropriate budget holder, appropriate Chief Officer or Executive prior to accepting the Tender.</p> <p>(d) Where an abnormally low Tender is submitted the Council shall require the Tenderer to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social or labour law, the Council must reject the Tender.</p> <p>(e) The appropriate Chief Officer shall have the authority to accept a Tender but in any particular circumstance may decline to give approval and refer the decision to the Executive to determine.</p>	<p style="text-align: center;">RULE 23 <i>Acceptance of Tenders</i></p> <p>(a) A Tender can only be accepted in accordance with the initial award methodology and evaluation criteria as set out in Rule 13. Any evaluation sheets must be maintained on file in accordance with Rule 34.</p> <p>(b) Any Tender with an Estimated Value of below £25,000 (where a Request for Quotation or an Invitation to Tender is not used) may only be accepted with the prior written approval of the appropriate Commercial Specialist.</p> <p>(c) If the Tender to be accepted exceeds the budget which was agreed in accordance with Rule 5(g) the Procuring Officer must ensure that sufficient funds are available and approved by the appropriate budget holder, appropriate Chief Officer or Executive prior to accepting the Tender.</p> <p>(d) Where an abnormally low Tender is submitted the Council shall require the Tenderer to explain in writing the price or costs proposed and may only reject the Tender where the explanation is unsatisfactory. Where it is established that the Tender is low due to breaches of environmental, social or labour law, the Council must reject the Tender.</p> <p>(e) Subject to Rule 1, the appropriate Chief Officer shall have the authority to accept a Tender but in any particular circumstance may decline to give approval and refer the decision to the Executive to determine.</p>
<p style="text-align: center;">RULE 25 <i>Form of Contract</i></p> <p>(a) A Contract shall be formed:</p> <p style="padding-left: 20px;">(i) by exchange of letter or electronic communication accepting the successful Tender and incorporating the Invitation to Tender or Request for Quotation and the outcome of any subsequent negotiations and discussions; or</p> <p style="padding-left: 20px;">(ii) by completion of a formal contract incorporating the Invitation to Tender or Request for Quotation, the Tender and the outcome of any subsequent</p>	<p style="text-align: center;">RULE 25 <i>Form of Contract</i></p> <p>(a) A Contract shall be formed:</p> <p style="padding-left: 20px;">(i) by exchange of letter or electronic communication accepting the successful Tender and incorporating the Invitation to Tender or Request for Quotation and the outcome of any subsequent negotiations and discussions; or</p> <p style="padding-left: 20px;">(ii) by completion of a formal contract incorporating the Invitation to Tender or Request for Quotation, the Tender and the outcome of any subsequent negotiations and/or</p>

negotiations and/or discussions; or

(iii) by placing an order in accordance with Rule 26.

(b) In determining and negotiating the terms and conditions of contract, the Procuring Officer must ensure that the appropriate Standard Terms and Conditions are incorporated unless the Procuring Officer having consulted the appropriate Director of Law and Governance and the appropriate Commercial Specialist considers it inappropriate to do so.

(c) All contracts with an Estimated Value of £25,000 or more must be in writing and where appropriate the appropriate Chief Officer shall:

(i) ensure that the Contract includes a definition of the circumstances that will be considered to constitute a default on the terms of the Contract by the supplier. The Contract must provide for notice of default to be given to the supplier and for any resulting losses to be recovered from the supplier if the default is not rectified.

(ii) decide whether it is necessary to require suppliers to provide a Performance Bond with a third party. The need for this will depend on an assessment of the risk associated with the contract or the supplier.

(iii) ensure that the contract provides for the supplier to have an insurance policy, which can be inspected during the contract period. The Chief Finance Officer shall be consulted on the insurance requirements.

(iv) consult the Chief Finance Officer on the appropriate VAT requirements.

(d) Every contract must be signed by the appropriate Chief Officer or an Officer designated by him and in cases determined by the Director of Law and Governance shall be under seal in the form prepared or approved by him.

(e) Except after consultation with the Director of Law and Governance, work or services must not be authorised to commence or goods to be supplied where such works, services or goods are to be the subject of a contract under seal entered into between the Council and the supplier, until the Director of Law and Governance has advised that the contract has been signed by the supplier.

discussions; or

(iii) by placing an order in accordance with Rule 26.

(b) In determining and negotiating the terms and conditions of contract, the Procuring Officer must ensure that the appropriate Standard Terms and Conditions are incorporated unless the Procuring Officer having consulted the appropriate Director of Law and Governance and the appropriate Commercial Specialist considers it inappropriate to do so.

(c) All contracts with an Estimated Value of £25,000 or more must be in writing and where appropriate the appropriate Chief Officer shall:

(i) ensure that the Contract includes a definition of the circumstances that will be considered to constitute a default on the terms of the Contract by the supplier. The Contract must provide for notice of default to be given to the supplier and for any resulting losses to be recovered from the supplier if the default is not rectified.

(ii) decide whether it is necessary to require suppliers to provide a Performance Bond with a third party. The need for this will depend on an assessment of the risk associated with the contract or the supplier.

(iii) ensure that the contract provides for the supplier to have an insurance policy, which can be inspected during the contract period. The Chief Finance Officer shall be consulted on the insurance requirements.

(iv) consult the Chief Finance Officer on the appropriate VAT requirements.

(d) Every contract must be signed by the appropriate Chief Officer or an Officer designated by him and in cases determined by the Director of Law and Governance shall be under seal in the form prepared or approved by him.

(e) Except after consultation with the Director of Law and Governance, work or services must not be authorised to commence or goods to be supplied where such works, services or goods are to be the subject of a contract under seal entered into between the Council and the supplier, until the Director of Law and Governance has advised that the contract has been signed by the supplier.

(f) The Procuring Officer shall consider the General Data Protection Regulation (GDPR) and Data Protection Act 2018 requirements and shall include in the contract appropriate provisions.

RULE 25A

Contract Management

- (a) The Procuring Officer shall immediately upon completion of every Procurement Exercise;
 - (i) In respect of contracts having a value of less than £25,000 and where the Electronic Tendering System has not been used, enter the Contract details in the Council's contracts register;
 - (ii) In respect of contracts of whatever value handled via the Electronic Tendering System the Procuring Officer shall ensure that the details of the Contract are published in the Council's contracts register.
- (b) All contracts shall be managed in accordance with these Rules and the Council's contract management framework which can be found in the Commissioning Toolkit.
- (c) The authorised officer or Contract Manager responsible for the management of the Contract shall:
 - (i) Obtain prior approval in accordance with Rule 30 before proceeding to authorise (in writing) any modification/extension to the Contract.
 - (ii) Ensure all documentation is uploaded to the Council's contract management system.
 - (iii) Ensure that a record is kept of all certificates and instructions issued under the Contract;
 - (iv) Keep documents in support of each payment showing how the payment amount has been valued and maintain a record of all such payments including any professional fees;
 - (v) Apply price fluctuation clauses detailed in the Contract;
 - (vi) Before terminating any contract and in particular for breach, consult the Director of Law and Governance;
 - (vii) Resolve all contractual matters and contractual claims, and issue any final account and final certificate in accordance with the terms of the Contract, taking advice from the Director of Law and Governance.

RULE 28

Framework Agreements

- (a) Procuring Officers must establish all Framework Agreements in accordance with these Rules.

RULE 25A

Contract Management

- (a) The Procuring Officer shall immediately upon completion of every Procurement Exercise;
 - (iii) In respect of contracts having a value of less than £25,000 and where the Electronic Tendering System has not been used, enter the Contract details in the Council's contracts register;
 - (iv) In respect of contracts of whatever value handled via the Electronic Tendering System the Procuring Officer shall ensure that the details of the Contract are published in the Council's contracts register.
- (b) All contracts shall be managed in accordance with these Rules and the Council's contract management **toolkit** which can be found in the Commissioning Toolkit **on the Council's intranet**.
- (c) The authorised officer or Contract Manager responsible for the management of the Contract shall:
 - (i) Obtain prior approval in accordance with Rule 30 before proceeding to authorise (in writing) any modification/extension to the Contract.
 - (ii) Ensure all documentation is uploaded to the Council's contract management system.
 - (iii) Ensure that a record is kept of all certificates and instructions issued under the Contract;
 - (iv) Keep documents in support of each payment showing how the payment amount has been valued and maintain a record of all such payments including any professional fees;
 - (v) **Prior to the contract renewal notice period for a contract, consult the relevant Commercial Specialist to review opportunities for contract negotiations for favourable contract terms.**
 - (vi) Before terminating any contract and in particular for breach, consult the Director of Law and Governance;
 - (vii) Resolve all contractual matters and contractual claims, and issue any final account and final certificate in accordance with the terms of the Contract, taking advice from the Director of Law and Governance.

RULE 28

Framework Agreements

- (a) Procuring Officers must establish all Framework Agreements in accordance with these Rules.

- (b) Framework Agreements must not be awarded for more than 4 years, including any extensions without the prior written consent of the Director of Corporate Resources following consultation with the Director of Law and Governance.
- (c) All suppliers on the Framework Agreement capable of performing the contract must be invited to participate in a Further Competition unless it is clear from the terms of the Framework Agreement which supplier best meets the award methodology set out in the Framework Agreement in which case that supplier may be selected.
- (d) Additional suppliers may only be added to a Framework Agreement throughout its duration in circumstances where:
 - (i) the Estimated Value is below the EU Threshold; or
 - (ii) the services tendered are Light-Touch Services to which the full regime of the Public Contracts Regulations 2015 is not considered to apply: and provided that the Invitation to Tender states:
 - (aa) that new suppliers may be added to the Framework Agreement; and
 - (bb) how many suppliers can apply to be added to the Framework Agreement; and
 - (cc) that the same evaluation criteria and award methodology are applied when deciding whether to award a place on the Framework Agreement to new suppliers as was applied at the time of the original award.

- (b) Framework Agreements must not be awarded for more than 4 years, including any extensions without the prior written consent of the Director of Corporate Resources following consultation with the Director of Law and Governance.
- (c) All suppliers on the Framework Agreement capable of performing the contract must be invited to participate in a Further Competition unless it is clear from the terms of the Framework Agreement which supplier best meets the award methodology set out in the Framework Agreement in which case that supplier may be selected.
- (d) Additional suppliers may only be added to a Framework Agreement throughout its duration in circumstances where:
 - (i) the Estimated Value is below the EU Threshold; or
 - (ii) the services tendered are Light-Touch Services to which the full regime of the Public Contracts Regulations 2015 is not considered to apply;
 - (iii) and in either case ((i) or (ii) above) provided that the Invitation to Tender states:**
 - (aa) that new suppliers may be added to the Framework Agreement; and
 - (bb) how many suppliers can apply to be added to the Framework Agreement; and
 - (cc) that the same evaluation criteria and award methodology are applied when deciding whether to award a place on the Framework Agreement to new suppliers as was applied at the time of the original award.

SCHEDULE 1

Interpretation

16. "Electronic Tendering System" means an electronic tendering system approved in accordance with Rule 5 (g) (ii).

39. "Standardised Pre-Qualification questionnaire" means a questionnaire that complies with the Crown Commercial Service statutory guidance relating to Pre-Qualification Questionnaires.

42. "Commissioning and Procurement Strategy" means the strategy document that explains how the Council's commissioning and procurement activity will be used between 2014 and 2018 to improve the quality of life for the people of Leicestershire and make Leicestershire the best possible place to live and work for everyone.

SCHEDULE 1

Interpretation

16. "Electronic Tendering System" means an electronic tendering system approved in accordance with Rule 5 (h) (ii).

39. "**Standard Selection** questionnaire" means a questionnaire that complies with the Crown Commercial Service statutory guidance relating to **Standard Selection** Questionnaires.

42. "**The Council's Strategic Plan 2018-22**" means the strategy document that explains how the Council's commissioning and procurement activity will be used between **2018 and 2022** to improve the quality of life for the people of Leicestershire and make Leicestershire the best possible place to live and work for everyone.

This page is intentionally left blank