

Proposed Amendments to the Contract Procedure Rules (2013-14)

Appendix B

	LCC Rule	ESPO Rule	Proposed Amendment	Rationale	Current Wording
1	Rule 6 -Exceptions		f) residential placements sought for an individual under the Shared Lives scheme [for any equivalent scheme]	New Rule added to allow exceptions to the rules under a Shared Lives Scheme	New Rule- Rule 6(a)(iv)(f)
2	Rule 11- Procurement Exercise Process		Procurement Exercise Process (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) All contracts with an Estimated Value of £100,000 or more must be referred to ESPO subject to any general exceptions agreed with ESPO prior to the commencement of the Procurement Exercise by the Procuring Officer unless the Procuring Officer acting on advice of the Category Manager considers that the Council can better comply with its duty of Best Value by not using ESPO. All such cases must be confirmed in writing to the Director of Corporate Resources. Table 1: Minimum requirements for a Procurement Exercise (for exceptions see Rule 6) : [...]	Rule amended to improve readability and to make clear that the Exception Rule 6 applies to all derogations from the rules. Also all reference to 'Rule 5' in Table 1 has been amended to Rule 6	(b) All contracts with an Estimated Value of £100,000 or more must be referred to ESPO subject to any general exceptions agreed with ESPO prior to the commencement of the Procurement Exercise by the Procuring Officer unless the Procuring Officer acting on advice of the Category Manager considers that the Council can better comply with its duty of Best Value by not using ESPO. All such cases must be confirmed in writing to the Director of Corporate Resources. Table 1: Minimum requirements for a Procurement Exercise (for exceptions see Rule 5):[...]
3	Rule 19 -Irregular Tenders		(c)Tenders other than E-Tenders where the Estimated Value is £100,000 or more are not valid unless they are received in a plain sealed envelope or parcel addressed to the Chief Executive the envelope or package must bear the word "Tender" followed by the subject to which it relates. (d) E-Tenders must be submitted in accordance with the requirements of the electronic tendering process used. (e) Where a Tender has been received which is an Irregular Tender in that it does not fully comply with the instructions given in the Invitation to Tender and/or because it is received after the appointed time for receipt or does not comply with Rules 19(b) or 19(c), the provisions of Rules 19(f) and 19(g) apply. (f) A Tender other than an E-Tender which is received after the closing date and time may be opened and evaluated in accordance with Rule 20 if there is clear evidence of it having:- [...]	Rule 19 has been amended to take account of the introduction of electronic tendering and to ensure that procurements conducted via an electronic tendering system are regulated in the same manner as the paper tenders.) A Tender is not valid unless it has been delivered to the place appointed in accordance with Rule 18 and not later than the appointed day and hour. (c) Tenders where the Estimated Value is £100,000 or more are not valid unless they are received in a plain sealed envelope or parcel addressed to the Chief Executive. The envelope or package must bear the word "Tender" followed by the subject to which it relates. (d) Where a Tender has been received which is an Irregular Tender in that it does not fully comply with the instructions given in the Invitation to Tender and/or because it is received after the appointed time for receipt or does not comply with Rules 19(b) and 19(c), the provisions of Rules 19(e) and 19(f) apply. (e) A Tender received after the closing date and time may be opened and evaluated in accordance with Rule 20 if there is clear evidence of it having:-[...]
3	Rule 20 -Receipt and Opening of Tenders		(a) Rule 20 (b) to (f) apply only to Tenders where the Estimated Value is £100,000 or more and the Tender is not an E-Tender. Rule 20 (g) applies to E-Tenders only (b) On receipt, envelopes containing Tenders must be date and time stamped by the Chief Executive and shall remain in his custody until they are opened. (c) The Chief Executive must keep a record of all Tenders received. (d) Tenders must be opened at one time in the presence of not less than two Officers one of whom is not involved in the Procurement Exercise and who is designated by the Chief Executive. Each Officer must initial each Tender once opened which must also be date stamped. (e) Particulars of all Tenders opened must be entered by the Chief Executive upon the record which must be signed by the Officers present at the opening, together with a note of all Irregular Tenders. (f) The Chief Executive must forthwith send a copy of the record to the appropriate Procuring Officer (with the Tenders) and must retain a copy himself. (g) E-Tenders must be opened in accordance with the requirements of the electronic tendering process used.	Rule 20 has been amended to take account of the introduction of electronic tendering and to ensure that procurements conducted via an electronic tendering system are regulated in the same manner as the paper tenders.	Receipt and Opening of Tenders (a) Rule 20 applies to Tenders where the Estimated Value is £100,000 or more, except where using an electronic tendering system that does not allow Tenders to be accessed until the deadline for Tender submissions has passed, and where Rule 9(g) has been followed. (b) On receipt, envelopes containing Tenders must be date and time stamped by the Chief Executive and shall remain in his custody until they are opened. The Chief Executive must keep a record of all Tenders received. (c) Tenders must be opened at one time in the presence of not less than two Officers one of whom is not involved in the Procurement Exercise and who is designated by the Chief Executive. Each Officer must initial each Tender once opened which must also be date stamped. (d) Particulars of all Tenders opened must be entered by the Chief Executive upon the record which must be signed by the Officers present at the opening, together with a note of all Irregular Tenders. (e) The Chief Executive must forthwith send a copy of the record to the appropriate Procuring Officer (with the Tenders) and must retain a copy himself.

4	Rule 30 -Contract Variations	<p>In the case of a contract which was originally approved by the Executive and where any variations are considered significant by the Director of Corporate Resources <u>or the County Solicitor in consultation with the appropriate Category Manager</u>, then <u>authority must be gained from</u> the Executive. <u>In all other circumstance the following applies</u></p> <p>30 (a) Prior to any variation being agreed <u>which would result in an increase in the Total Value of the contract</u> the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p> <p>30 (b) If the Total Value of the contract is under £100,000, <u>including the planned variation</u>, the Appropriate Chief Officer <u>in consultation with the appropriate Category Manager</u> shall be authorised to vary the contract.</p> <p>30 (c) In the case of a contract with a Total Value of £100,000 or more: i) for variation(s) that would increase or decrease the Total Value of the contract by 10% or more, the Appropriate Chief Officer <u>in consultation with the appropriate Category Manager and the County Solicitor</u> must gain the prior approval of the Director of Corporate Resources. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter.</p> <p>(ii) <u>for any variation(s) that would increase or decrease the Total Value of the contract by less than 10% the Appropriate Chief Officer in consultation with the appropriate Category Manager shall be authorised to vary the contract. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter.</u></p> <p><u>30 (d) All contract variations must be within the scope of the original contract.</u></p>	Rule 30 has been amended so that it follows the same format as Rule 31	<p>Contract Variations</p> <p>(a) Prior to any variation being agreed which would result in an increase in the Total Value of the contract the Procuring Officer must ensure that sufficient additional budget provision has been approved by the budget holder.</p> <p>(b) If the Total Value of the contract is under £100,000, including the planned variation, the Appropriate Chief Officer in consultation with the appropriate Category Manager shall be authorised to vary the contract. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter.</p> <p>(c) In the case of a contract with a Total Value of £100,000 or more: (i) for any variation(s) that would increase or decrease the Total Value of the contract by 10% or more, the Appropriate Chief Officer in consultation with the appropriate Category Manager and the County Solicitor must gain the prior approval of the Director of Corporate Resources. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter; (ii) for any variation(s) that would increase or decrease the Total Value of the contract by less than 10% the Appropriate Chief Officer in consultation with the appropriate Category Manager shall be authorised to vary the contract. This authorisation must be issued before the work is carried out, or in the case of an emergency, immediately thereafter.</p>
5	Schedule 1 -Interpretation "Category Manager"	<p>"Category Manager" means a <u>Commercial Specialist or other</u> Officer authorised by the Director of Corporate Resources to manage the procurement of a category or categories of goods, services and/or works. Where there is no Category Manager for the goods, services and/or works being procured the Head of Procurement shall adopt this role. .</p>	Definition of Category Manager amended following the restructure of the Corporate Procurement Unit into a Commercial and Procurement Service, the amendment therefore takes account of the change in the officers designation but at the same time recognising the category management approach.	<p>"Category Manager" means the Officer authorised by the Director of Corporate Resources to manage the procurement of a category or categories of goods, services and/or works. Where there is no Category Manager for the goods, services and/or works being procured the Head of Procurement shall adopt this role.</p>
6	Schedule 1 -Interpretation "E-tender"	<p><u>"E-Tender" means a Tender that has been submitted using an electronic tendering system that complies with Rule 5 (g).</u></p>	The term has been introduced to take account of electronic tendering.	New definition
7	Schedule 1 -Interpretation "Tender"	<p>"Tender" means the formal offer from a Tenderer, which is capable of acceptance by the Council, which is a response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specification and method statements as well as information about the Tenderer. A written Quote or Quotation is also a Tender. <u>The term "Tender" also includes an E-Tender except where the context implies otherwise.</u></p>	The amendment has been made to take account of electronic tendering.	<p>"Tender" means the formal offer from a Tenderer, which is capable of acceptance by the Council, which is a response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specification and method statements as well as information about the Tenderer. A written Quote or Quotation is also a Tender.</p>