

Section G – Contract Procedure Rules

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 rules (“the Contract Procedure Rules”) are a legal requirement and are part of the CFA’s Constitution. 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 CFA. Following these Contract Procedure Rules ensures that the CFA meets its legal obligations and therefore it is important that all officers understand, apply and adhere to Contract Procedure Rules.
- 1.2 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 the Monitoring Officer.

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 CFA, 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 CFA’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 CFA fails to comply with procurement legislation, it leaves itself open to challenges from Bidders/Contractors who may bring claims for damages

against the CFA. Non-compliance may also lead to the CFA being fined and/or having funding withdrawn.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 the Contract Procedure Rules rests with anyone who carries out procurement of Goods, Services or Works for, or on behalf of, the CFA.

4. Procurement Guidance

- 4.1 The Chief Fire and Rescue Officer 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 the Contract Procedure Rules and or guidance issued under Rule 4.1, the provisions of the 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 CFA.
- 5.2 The higher the value and risk, the more rigorous the process. The CFA recognises the administrative cost involved in tendering Contracts and provides for less exhaustive processes for lower value Contracts. The 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 CFA's Governance and Risk Management Strategy 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 CFA'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 CFA 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 The Public Services (Social Value) Act 2012 requires the CFA under certain circumstances to consider how the economic, social and environmental wellbeing of Leicester, Leicestershire and Rutland 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 CFA 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 and the CFA 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. Electronic Tendering System

- 10.1 Use of an Electronic Tendering System means 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 such systems are auditable. An Electronic Tendering System should be used where practical and always for EU Contracts.
- 10.2 Any reference in these Rules to “written”, or “in writing”, will be satisfied by an e-mail, a process within an Electronic Tendering System or any other electronic means.
- 10.3 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.

12. Status

12.1 In the event of any inconsistencies between the provisions of the Contract Procedure Rules and the Law, then 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 CFA;

12.2.3 are applicable to all departments of the CFA, including the CFA's trading organisations and organisations for which the CFA is the accountable body;

12.2.4 are applicable where the CFA 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 CFA and empowered to form contracts on behalf of the CFA and by any person who is not an officer of the CFA engaged to manage a Contract on behalf of the CFA;

12.2.6 shall be interpreted so far as possible to ensure the aims set out at Rule 2 of the Contract Procedure Rules are achieved;

12.2.7 are not applicable to expenditure between or within CFA departments;

13. Scope

13.1 The 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 CFA of Goods including but not limited to intellectual property, or Works;

13.2.2 for the provision of Services, including consultancy, to the CFA;

13.2.3 Works and Services Concession Contracts;

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

13.3 The Contract Procedure Rules apply to the award of a Contract where a sub-contractor or supplier is to be nominated by the CFA to a main Contractor.

13.4 The Contract Procedure Rules are not applicable to:

13.4.1 Contracts only 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, which do not fall within the definition of procurement set out in the Public Contracts Regulations 2015;
- 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 Monitoring Officer has been obtained. Any such functional arrangements must be added to the Contracts Register.

14. Private Interests

- 14.1 No member, officer or agent of the CFA, shall improperly use their position to obtain any personal or private benefit from any Contract entered into by the CFA.
- 14.2 Employees shall comply with the Code of Conduct for Officers which 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 Monitoring Officer.
- 14.4 Whenever any member, officer or other person involved in a procurement process on behalf of the CFA 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 Monitoring Officer. 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 Monitoring Officer 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 Procuring Officer must calculate its estimated value in accordance with this Rule (the Estimated Value).
- 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 Contractor 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 CFA 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 CFA 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 Estimated 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 Procuring 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
Minor Contract	£0 - £ 105 ,000
Small Contract	£ 105 ,000 - £25,000
Intermediate Contract	£25,000 - £ 10075 ,000
Large Contract	£100,000 – EU Threshold
EU Contract	Over EU Threshold

APPROVALS & REPORTING

16. Procurement Plan

- 16.1 The Chief Fire and Rescue Officer 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 bidders.
- 16.2 The award of all Contracts is delegated to the Chief Fire and Rescue Officer.

17. Procurement Strategy

- 17.1 The Chief Fire and Rescue Officer is responsible for periodically approving a Procurement Strategy, which will include the CFA's approach to procurement and how procurement and management of Contracts will contribute to the overall aims and objectives of the CFA.

18. Minor Amendments to the Rules

- 18.1 The Monitoring Officer, in consultation with the Chief Fire and Rescue Officer and Treasurer, may from time to time amend the thresholds in the table in Rule 15.6.
- 18.2 The Monitoring Officer may from time to time amend the Contract Procedure Rules:
 - 18.2.1 To correct an error or clarify an ambiguity;
 - 18.2.2 To reflect changes in the management structure, working practices and responsibilities, e.g. as set out elsewhere in the Constitution; and
 - 18.2.3 To reflect changes in the Law where otherwise these rules would not be constituent with the Law;
- 18.3 If changes to the Contract Procedure Rules are made pursuant to Rule 18.1 or 18.2 above, the Monitoring Officer shall cause such changes to be published and the Constitution to be amended.

19. Periodic Reporting and Review of the Rules

- 19.1 The Monitoring Officer, in consultation with the Chief Fire and Rescue Officer and Treasurer, shall at least every five years review the Contract Procedure Rules and, if deemed appropriate, propose amendments to the CFA for consideration.

19.2 The Corporate Governance Committee will receive a report annually to include:

19.2.1 EU Contract procurement over the preceding 12 months;

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

19.2.3 Any changes to these Rules made under Rule 18 above.

EXCLUSIONS, EXEMPTIONS & WAIVERS

20. No Competition

20.1 The actions permitted under this Rule 20 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 the Contract Procedure Rules. Procuring Officers should seek advice from the Monitoring Officer.

21. Exemptions & Waivers

21.1 The Procuring Officer may request an exemption to the Contract Procedure Rules to directly negotiate the award of a Contract without for Contracts for:

21.1.1 Goods, Services or Works which are available only as proprietary or patented articles; Services or Works from one Contractor 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;

21.1.2 genuine unforeseen emergencies (not of the CFA's own making), where immediate action is required, including in order to fulfil the CFA's statutory obligations under the Civil Contingencies Act 2004;

21.1.3 Goods, Services or Works where one or more of the criteria for use of the negotiated procedure without prior publication set out in Regulation 32 of the Public Contracts Regulations 2015 are met; or certain Services set out in Regulation 10 of the Public Contracts Regulations 2015.

21.2 When none of the circumstances listed in Rule 21.1 apply, the Procuring Officer may, following consultation with the Monitoring Officer, request a waiver of the Contract Procedure Rules.

21.3 The following table sets out the required authorisations for exemptions and waivers.

Contract Categorisation	Exemption	Waiver
Minor Contract	Chief Fire and Rescue Officer	Chief Fire and Rescue Officer
Small Contract	Chief Fire and Rescue Officer	Chief Fire and Rescue Officer
Intermediate Contract	Chief Fire and Rescue Officer	Chief Fire and Rescue Officer
Large Contract	Monitoring Officer & Chief Fire & Rescue Officer	Monitoring Officer & Chief Fire & Rescue Officer
EU Contract	Monitoring Officer and Chief Fire and Rescue Officer	Monitoring Officer and Chief Fire and Rescue Officer

22. In-House

- 22.1 Where in-house staff are able to provide the Goods, Services or Works required by another department/service of the CFA, the Procuring Officer should consult with the in-house staff prior to commencing a procurement exercise.
- 22.2 Where the Procuring Officer considers it more advantageous to the CFA as a whole to procure the service externally rather than use the in-house staff, the Contract Procedure Rules must be followed.
- 22.3 Where the Procuring Officer decides to engage the in-house staff to provide Goods, Services or Works, the Contract Procedure Rules do not apply.

TERMS AND CONDITIONS

23. Contract Duration

- 23.1 A Contract may not be of indeterminate duration or have a duration exceeding five years without the prior written approval of the Chief Fire and Rescue Officer.
- 23.2 A Framework Agreement may not be of indeterminate duration or have a duration exceeding four years without the prior written approval of the Monitoring Officer.

24. Contract Terms

- 24.1 For Minor and Small Contracts, the Procuring Officer may place a Purchase Order including the CFA's Standard Terms and Conditions.
- 24.2 When using a non-CFA Framework Agreement, the Procuring Officer may use the conditions of contract set out in the Framework Agreement.
- 24.3 For Intermediate and Large Contracts, the Procuring Officer may use:
 - 24.3.1 Appropriate Industry Standard Contract Templates, e.g. JCT or NEC; or
 - 24.3.2 The CFA'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 the Monitoring Officer to provide appropriate terms and conditions. If the CFA is to contract on a Contractor's terms and conditions, these must be approved in writing by Monitoring Officer prior to a Contract being signed.

- 24.4 For EU Contracts, the Procuring Officer must request that the Monitoring Officer provide and/or approve appropriate terms and conditions.

25. Execution of Contracts

- 25.1 For Intermediate Contracts, the Procuring Officer must complete a Delegated Powers Certificate (DPC) for authorisation by the Chief Fire and Rescue Officer. Once the DPC is authorised, the Procuring Officer may issue the Contract to the Contractor(s) for execution.
- 25.2 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 Chief Fire and Rescue Officer. Once the DPC is appropriately authorised, the Procuring Officer may issue the Contract to the Contractor(s) for execution.
- 25.3 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 Chief Fire & Rescue Officer. Once the DPC is appropriately authorised, the Procuring Officer may issue the notices under Rule 48.1 to

commence the Standstill Period. On completion of the Standstill Period, the DPC must be again authorised by the Chief Fire and Rescue Officer, and, if a challenge is received, by the Monitoring Officer. Once the DPC has again been appropriately authorised, the Procuring Officer may issue the Contract to the Contractor(s) for execution.

25.4 EU Contracts must be executed under seal as a deed.

25.5 Letters of Intent may only be issued ahead of the full Contract with the prior written approval of the Monitoring Officer.

26. Mandatory Clauses

26.1 The proposed terms of Contract must include the provisions:

- 26.1.1 Permitting the termination of the Contract and the recovery of any sums paid where there has been evidence of bribery or corruption;
- 26.1.2 Entitling the CFA 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 the insolvency of the Contractor;
- 26.1.3 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;
- 26.1.4 For Large and EU Contracts, prohibiting the Contract or from sub-contracting, assigning or otherwise transferring the Contract without the prior written consent of the CFA and providing that the Contractor shall remain liable to the CFA for any part of the Contract that may be sub-contracted;
- 26.1.5 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 CFA 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; and
 - f) workforce transfer legislation, where appropriate, including associated codes of practice.
- 26.1.6 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;
- 26.1.7 Setting out indemnities in respect of claims made against the CFA made in respect of a Contractor's activities and the provision of satisfactory insurance against such claims;
 - 26.1.8 In cases where the Contractor's activities are of a type that can normally be so insured, requiring provision to the CFA of evidence of satisfactory professional indemnity insurance held by the Contractor.
 - 26.1.9 Where appropriate, requiring the provision to the CFA of adequate Intellectual Property protection together with an indemnity protection;
 - 26.1.10 Requiring the provision to the CFA of adequate warranties (or direct covenants) from manufacturers of mechanical and engineering supplies, or for supplies of other products, where the CFA'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;
 - 26.1.11 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 CFA's right to investigate and access to records/data;
 - 26.1.12 For professional consultancy Contracts, requiring fair dealing in the case of conflict of interest;
 - 26.1.13 Requiring the Contractor to grant reasonable access to the CFA to information relating to the Contract, and to undertake appropriate monitoring and compliance procedures.

PROCUREMENT PROCEDURES

27. Principles

- 27.1 A Contract of a lower Estimated Value may be procured via a procedure for a Contract of a higher Estimated Value, 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 Regulations.
- 27.2 Where the Regulations permit (or do not fully apply), the procurement procedures set out in Rules ~~333332~~ to ~~373736~~ 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.
- 27.3 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.
- 27.4 The Procuring Officer must ensure that any Quotation/Tender, if accepted, is reasonable in all the circumstances and represents value for money for the CFA.

28. Minor Contracts

- 28.1 For Minor Contracts, the Procuring Officer should obtain at least one quotation, preferably in writing and from a Local Bidder.
- 28.2 Whilst there is only a requirement for one quotation the Procuring Officer must consider whether additional quotations are in the CFA's best interests.
- 28.3 Where it is not practical or possible to obtain a written quotation, the Procuring Officer must obtain at least one oral quotation and record this contemporaneously.

29. Small Contracts

- 29.1 Small Contracts must be procured in one of three ways:
- 29.1.1 An Advertised Quotation process as further described in Rule 33;
 - 29.1.2 A Targeted Quotation process as further described in Rule 34; or
 - 29.1.3 Use of a compliant Non-CFA Framework Agreement.

30. Intermediate Contracts

- 30.1 Intermediate Contracts must be procured in one of three ways:
- 30.1.1 An Advertised Quotation process;
 - 30.1.2 A Targeted Quotation process; or
 - 30.1.3 Use of a compliant Non-CFA Framework Agreement.

31. Large Contracts

- 31.1 Large Contracts must be procured in one of three ways:
 - 31.1.1 An open procedure;
 - 31.1.2 A restricted procedure; or
 - 31.1.3 Use of a compliant Non-CFA Framework Agreement.

32. EU Contracts

- 32.1 EU Contracts must be procured in consultation with the Monitoring Officer.
- 32.2 EU Contracts must be procured in one of the following ways:
 - 32.2.1 An open procedure;
 - 32.2.2 A restricted procedure;
 - 32.2.3 Use of a compliant Non-CFA Framework Agreement; or
 - 32.2.4 A Complex Procurement Procedure set out in Rule 37.

33. Advertised Quotation

- 33.1 The Procuring Officer must advertise the requirement for an appropriate period of time to allow interested parties to respond.
- 33.2 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:
 - 33.2.1 Instructions for the completion and return of Quotations;
 - 33.2.2 A Specification setting out the CFA's requirements;
 - 33.2.3 The proposed terms and conditions of Contract;
- 33.3 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.

34. Targeted Quotation

- 34.1 The Procuring Officer must obtain three written Quotations of which at least one should be from a Local Bidder. Where this is not reasonably practical, the Procuring Officer must make a file note to evidence reasonable effort to obtain the required Quotations.
- 34.2 For Intermediate Contracts, the Procuring Officer must issue an RfQ as described in Rule 33.2 to a selection of Bidders to invite Quotations.
- 34.3 The Procuring Officer must record all details of the Quotations or other responses for future reference.

34.4 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.

35. Open Tender

35.1 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.

35.2 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:

35.2.1 Instructions for the completion and return of Tenders;

35.2.2 A Specification setting out the CFA's requirements;

35.2.3 The proposed terms and conditions of Contract; and

35.2.4 The procedure for the evaluation of Tenders.

35.3 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.

35.4 When using an open procedure for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Regulations.

36. Restricted Tender

36.1 The Procuring Officer must advertise the Contract on the Source Leicestershire website (or other appropriate website) for an appropriate period of time to allow interested parties to respond.

36.2 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:

36.2.1 Instructions for the completion and return of PQQs;

36.2.2 A brief overview of the CFA's requirements; and

36.2.3 The procedure for the evaluation of PQQs.

36.3 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).

36.4 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 meet the requirements of Rule 34.2 above.

36.5 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.

36.6 When using a restricted procedure for an EU Contract, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.

37. Complex Procurement Procedures

37.1 The following procurement procedures may only be used with the approval of the Monitoring Officer:

37.1.1 innovation partnership or design contest;

37.1.2 competitive procedure with negotiation;

37.1.3 competitive dialogue.

37.2 When using any of these procedures, the Procuring Officer must comply with any applicable requirements set out in the Public Contracts Regulations 2015.

38. Value Categorisation of Framework Agreements & DPSs

38.1 Categorisation of Framework Agreements and Dynamic Purchasing Systems (DPS) 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.

39. CFA Framework Agreements

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

39.2 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.

40. Non-CFA Framework Agreements

40.1 The Procuring Officer may use Framework Agreements set up by other public authorities or central purchasing bodies where the Framework Agreement entitles the CFA to do so. For EU Contracts this must be subject to the approval of the Monitoring Officer.

40.2 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.

41. Dynamic Purchasing Systems (DPSs)

- 41.1 A Dynamic Purchasing System may only be established with the approval of the Monitoring Officer. A Dynamic Purchasing System must be established and used in accordance with the Public Contracts Regulations 2015.

CONDUCTING A PROCUREMENT PROCESS

42. Fairness & Equal Treatment

- 42.1 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.
- 42.2 The Procuring Officer must ensure that all processes set out in the procurement documentation issued to Bidders are followed.
- 42.3 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 [42.142.141.1](#) is complied with, to the extent that any response given to one Bidder may be relevant to other Bidders.

43. Advertisement

- 43.1 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 Monitoring Officer.
- 43.2 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:
 - 43.2.1 the requirements of the Regulations;
 - 43.2.2 the amount of effort likely to be required to make a Submission; and
 - 43.2.3 the urgency of the requirement.
- 43.3 The Advertisement must express the nature and purpose of the procurement procedure, stating where further details may be obtained.

44. Specification

- 44.1 The Specification must be a clear written statement of the Goods, Services or Works required, in sufficient detail to:
 - 44.1.1 enable the Bidder to submit a competitive price, demonstrating quality and added value;
 - 44.1.2 ensure that Goods, Services or Works supplied will meet the requirement of the CFA; and
 - 44.1.3 define the precise output and/or outcomes required.

44.2 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 Procuring Officer and the Procuring Officer. Such reference shall be accompanied by the words 'or equivalent'.

45. Opening of Submissions

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

45.2 For Large and EU Contracts, where an Electronic Tendering System is not used:

45.2.1 Tenders must be returned to an officer designated by the Monitoring Officer. The designated officer must have no other involvement in the procurement process.

45.2.2 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.

45.2.3 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.

45.2.4 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.

45.2.5 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.

45.2.6 The designated officer must retain a copy of the record and forthwith send a copy to the Procuring Officer with the Tenders.

45.3 For Quotations and Tenders not covered by Rule [45.245-2](#) above, where an Electronic Tendering System is not used:

45.3.1 Submissions must be returned to an officer designated by the Monitoring Officer. The designated officer must have no other involvement in the procurement process.

45.3.2 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.

45.4 Where Submissions are received by e-mail, the requirement in Rules [45.245-2](#) and [45.345-3](#) 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.

- 45.5 Where an Electronic Tendering System is not used, completed PQQs may be returned directly to the Procuring Officer.
- 45.6 The Monitoring Officer may authorise the acceptance of Submissions received via an Electronic Tendering System after the stated date and time where:
- 45.6.1 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
- 45.6.2 the Bidder gains no other advantage through the acceptance of their Submission.
- 45.7 Where an 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:
- 45.7.1 been posted by first class post at least a day before the closing date; or
- 45.7.2 been posted by second class post at least three days before the closing date; or
- 45.7.3 been placed in the custody of a courier who has provided reasonable written assurance of delivery prior to the closing date and time.
- 45.8 Submissions not received in compliance with the instructions set out for Bidders will be rejected, except where the Monitoring Officer 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 Monitoring Officer 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.

46. Clarification of Submissions

- 46.1 Bidders are not permitted to alter their Submissions after opening save in accordance with the instructions provided to Bidders, this Rule or Rule 47 below.
- 46.2 Following the closing date for receipt of Submissions but before acceptance of any Submission, the Procuring Officer may correspond or discuss with Bidders in order to seek clarification of its Submission. A written note of the discussions must be made to record the date, time, and detail of the discussion. Where an Electronic Tendering System is being used, clarification should be conducted via or recorded on the Electronic Tendering System.
- 46.3 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 CFA's discretion.

47. Negotiation

- 47.1 Subject to the prior written approval of the Monitoring Officer, for all Contracts except EU Contracts, following the closing date for receipt of Submissions, but before acceptance of any Submissions, the Procuring Officer may negotiate with the Bidder(s) in an attempt to secure improvements in the price or economic advantage.
- 47.2 Post-tender negotiations are not allowed for EU Contracts; however, clarifications of errors or discrepancies in Tenders may take place in accordance with Rule [464645](#).

48. Standstill Period

- 48.1 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:
- 48.1.1 the successful Bidder's score;
 - 48.1.2 the score (if any) of the Bidder receiving the notice;
 - 48.1.3 the characteristics and (if appropriate) relative advantages of the successful Bidder's Tender;
 - 48.1.4 any reasons why the Bidder receiving the notice did not meet the Specification;
 - 48.1.5 the name of the Bidder to be awarded the Contract, and
 - 48.1.6 the date when the Standstill Period required in accordance with Rule 48.2 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.

- 48.2 The Standstill Period must last a minimum of 10 calendar days from the day of sending the notice to the date on which the CFA 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, count the day after sending the notice as day one. The Standstill Period must end on a Working Day.
- 48.3 If, during the Standstill Period, a formal challenge is received from a Bidder, the authorisation of the Monitoring Officer to award the Contract must be sought.

49. Contract Award

- 49.1 Following the appropriate authorisation of a DPC (see Rule 25), 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.
- 49.2 For Large and EU Contracts the Procuring Officer must also notify in writing all unsuccessful Bidders at the same time as the successful Bidder(s).

- 49.3 For Contracts for which the Regulations stipulate that an OJEU Contract Award Notice, OJEU Concession Award Notice 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 Regulations.
- 49.4 The Procuring Officer must ensure that all Small, Intermediate, Large and EU Contracts are entered onto the Contracts Register maintained by the Monitoring Officer.

CONTRACT MANAGEMENT & CONTRACT AMENDMENTS

50. Contract Management

- 50.1 The Chief Fire and Rescue Officer must ensure that for each Large or EU Contract, a person is designated as the Contract Manager. The Contract Manager may be a CFA officer or a Contractor/consultant. The Procuring Officer may be, but need not be, the Contract Manager.
- 50.2 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 CFA and Contractor both fulfil their respective obligations under the Contract.

51. Financial Parameters for Contract Amendments

- 51.1 When considering Contract Extensions and Variations as set out in Rules 52 and 53 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.

52. Contract Extensions

- 52.1 Where a Minor, Small or Intermediate Contract provides for the proposed extension, the Contract Manager shall be authorised to extend the period of the Contract. The Contract Manager must inform the Monitoring Officer of the extension.
- 52.2 Where a Large or EU Contract provides for the proposed extension, the ~~appropriate~~ Chief Fire and Rescue Officer shall be authorised to extend the period of the Contract in consultation with the Monitoring Officer.
- 52.3 Where a Minor, Small or Intermediate Contract does not provide for the proposed extension, the Chief Fire and Rescue Officer~~appropriate Divisional Director~~ shall be authorised to extend the period of the Contract. The Chief Fire and Rescue Officer~~Divisional Director~~ must inform the Monitoring Officer of the extension.
- 52.4 Where a Large or EU Contract does not provide for the proposed extension, the Chief Fire and Rescue Officer~~appropriate Divisional Director~~ shall seek authorisation to extend the period of the Contract from the Monitoring Officer.
- ~~52.5 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 Monitoring Officer.~~

53. Contract Variations

- 53.1 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.

- 53.2 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.
- 53.3 The Chief Fire and Rescue Officer 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 Chief Fire and Rescue Officer must inform the Monitoring Officer of the variation.
- 53.4 The Chief Fire and Rescue Officer 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 Chief Fire and Rescue Officer must inform the Monitoring Officer of the variation.
- 53.5 If the proposed variation of a Large Contract will give cause to an increase to the original Contract Value of more than 50% the Chief Fire and Rescue Officer must seek the authorisation of the Monitoring Officer. 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.
- 53.6 The Chief Fire and Rescue Officer 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 a Variation with ones that have previously been authorised. In such cases the Chief Fire and Rescue Officer must inform the Monitoring Officer 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 Chief Fire and Rescue Officer must seek the authorisation of the Monitoring Officer ensuring the CFA remains within the provisions of the Regulations. 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.

54. Novation of Existing Contracts

- 54.1 The novation of a Contract from/to the CFA or to a new Person (in place of the CFA or in place of another party to the Contract) requires the prior written approval of the Monitoring Officer. The novation of a Contract must be agreed in writing between the parties.

55. Early Termination of Contracts

- 55.1 Following consultation with the Monitoring Officer the Chief Fire and Rescue Officer 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.

56. Execution of Contract Amendments

- 56.1 For Small and Intermediate Contracts, the Contract Manager must complete a Contract Extension and Variation form (CEV) detailing the Contract Amendment for the appropriate authorisations. Once the CEV 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 11 of the Constitution. If the Contract Manager is not authorised to do so, another officer, so duly authorised, may do so.
- 56.2 For Large and EU Contracts the Contract Manager must complete a CEV for the appropriate authorisations detailing the Contract Amendment. Once the CEV 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 CFA'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 Fire and Rescue Officer will identify the postholder to replace the stated job title. To ensure effective operation of the Contract Procedure Rules, the Monitoring Officer, Chief Fire & Rescue Officer and Treasurer may delegate their responsibilities under the Contract Procedure Rules to appropriately skilled officers.

Other terms are defined by the Contract Procedure 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 CFAs are required to plan, deliver and continuously improve services. Each fire 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.

“Contract” means an agreement between the CFA 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.

“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 Monitoring Officer 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 or Regulation 9(1) of the Concession Contracts Regulations 2016.

“Evaluation Panel” means the Procuring 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 Procuring Officer.

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

“Law” means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply

“Local” means a business having a base from which the Goods/Services/Works will be delivered with a postcode within the administrative area of Leicestershire, Leicester City and Rutland.

“OJEU” means the Official Journal.

“Procuring Officer” means a person appointed by the Chief Fire and Rescue Officer to identify and specify the requirement, and provide specialist service/technical input into the procurement procedure and carry 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 Request for Quotation (also referred to as an RfQ) or a similar Submission from a Bidder, and any attached documents submitted by a Bidder as part of a procurement procedure; or, where no RfQ has been issued, a clear priced offer of Goods/Services/Works including adequate terms and conditions and Specification.

“Regulations” means the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016, or whichever applies.

“Schedule 3” means Schedule 3 to the Regulations.

“Services” means the services provided pursuant to a Public Services Contract.

“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 CFA.
- c) define the precise output and/or outcomes required.

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

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

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