

**Framework Agreement**  
**for**  
**Construction Work**

Department of Finance

Public Works Framework Agreement  
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Dublin 2.

# Agreement

THIS FRAMEWORK AGREEMENT is made on  BETWEEN

*The Employer:* The Health Service Executive (HSE)

*Principal office of Employer:* Oak House,  
Millennium Park,  
Naas,  
Co Kildare.

AND

*The Contractor:*

*Registered office of Contractor:*

THE EMPLOYER AND THE CONTRACTOR AGREE as follows:

1. **Framework**

- 1.1 The Contractor and other Participants named in the attached Framework Rules are part of a framework for the Contractor and those other Participants to do construction work for the Employer.
- 1.2 If, during the **Framework Period** defined in the attached Framework Rules, the Employer needs construction work as described in the Framework Rules, the Employer may procure the work by awarding contracts (**Works Contracts**) according to the attached Framework Rules. The Employer may also procure the work in other ways, and does not guarantee that any work will be procured under this agreement.

2. **Works Contracts**

- 2.1 If the Contractor is selected for any work according to the attached Framework Rules, the Employer and Contractor agree to enter a Works Contract in the terms established under this agreement.
- 2.2 Works Contracts will be on the terms of the Short Contract for Public Building and Civil Engineering Works, as completed by the Employer and the Contractor according to the attached Framework Rules.
- 2.3 Works Contracts awarded within the Framework Period may be for work that continues after that period.

3. **Communications**

- 3.1 The Contractor's contact person for communications with the Employer in relation to this agreement and Works Contracts is:

*Name of Contractor's contact person*

*Address*

*Telephone*

*Mobile phone*

Fax

eMail

If that person (or any subsequent replacement) is no longer able to fulfil the role, the Contractor must promptly appoint a replacement, who must be a director or senior manager of the Contractor, and notify the Employer of the new contact person.

3.2 The Employer's contact persons for communications with the Contractor in relation to this agreement is:

Name of Employer's contact person	TBC		
Address			
Telephone		Mobile phone	
Fax		eMail	

The Employer may change these details by notice to the Contractor.

#### 4. Tax Clearance Certificate

At all times during the Framework Period, the Contractor must hold a valid tax clearance certificate issued by the Revenue Commissioners.

#### 5. Performance Measurement

- 5.1 On completion of each Works Contract, and other times requested by the Employer, the Contractor must collate and give the Employer the data necessary to demonstrate compliance with the performance indicators listed in the attached Performance Measurement Table.
- 5.2 The Employer may review the Contractor's performance according to the attached Framework Rules and Performance Measurement Table. The Contractor must provide any information required by the Employer for this.

#### 6. Confidentiality

- 6.1 The Contractor must not disclose to anyone:
  - official information as defined in the Official Secrets Act 1963 or
  - other information that the Employer notifies the Contractor is confidentialexcept as necessary to perform the Contractor's obligations under this agreement or a Works Contract or to comply with the law.
- 6.2 The Contractor's obligations under this clause are perpetual, and this clause survives termination of this agreement.

#### 7. Termination

- 7.1 The Employer may terminate this agreement by written notice to the Contractor:
  - if a Works Contract with the Contractor is terminated or
  - according to the attached Framework Rules or
  - if the Contractor breaks this agreement or
  - if any statement made by the Contractor in connection with the procedure by which this agreement was awarded to the Contractor was untrue when made or subsequently ceases to be true or
  - without cause, if the Employer also terminates its agreements with the other Participants listed in the Framework Rules.
- 7.2 Termination of this agreement does not affect any Works Contract already entered.

7.3 The Contractor is not entitled to any payment because this agreement has been terminated.

**8. Limitation on liability**

Neither the Contractor nor the Employer have any liability to the other under or in connection with this agreement for breach of contract, negligence, breach of duty or anything else. This does not affect their liability under any Works Contract.

**9. This Agreement**

9.1 Neither party may assign rights under this agreement.

9.2 This, and any Works Contracts, are the entire agreement between the Employer and the Contractor about its subject matter. Neither the Employer nor the Contractor has relied on any agreement, understanding, or statement that is not written or referred to in this agreement.

9.3 This agreement can only be changed in writing, signed by authorised representatives of the Employer and the Contractor.

9.4 This agreement is governed and to be construed according to Irish law.

**SIGNED by the Employer and the Contractor on the date at the top of this agreement**

**Signed on behalf of the Employer:**

*Signature of person authorised to  
sign contracts on behalf of the  
Employer:*

**Signed on behalf of the Contractor:**

*Signature of person authorised to  
sign contracts on behalf of the  
Contractor:*

# Framework Rules

## 1. The Framework

1.1 *The Employer*   
has established a framework for the procurement of construction work in relation to

The framework consists of a **Framework Agreement** between the Employer and each of the **Participants** listed below. Each Framework Agreement incorporates these rules.

1.2 If, during the period  
starting on

and ending on

(the **Framework Period**), the Employer needs construction work as described in rule 1.1 above, the Employer may procure it by awarding **Works Contracts** according to these rules. The Employer may also procure the work in other ways, and does not guarantee that any work will be procured under these rules.

## 2. Participants

2.1 The Participants in the Framework are listed below, in alphabetical order.

2.2 A Participant whose Framework Agreement has been terminated will no longer be considered a Participant under these rules.

### 3. Call off by competition

- 3.1 When the Employer decides to procure work under these rules, the Employer will send each Participant a written invitation to tender. The invitation will be sent by email to each Participant's current email address as given in or notified under its Framework Agreement. The invitation will include a draft Works Contract, based on the *Short Contract for Public Building and Civil Engineering Works* with the Schedule completed by the Employer in its discretion, including details of the required Works. The invitation will fix a time limit for Participants to send in tenders taking account of such factors as the complexity of the subject-matter of the Works Contract and the time needed to send in tenders.
- 3.2 The award process for Works Contracts tendered under this rule 3 will be conducted in accordance with these rules and any procedures stated in the invitation to tender. It may include an electronic auction.
- 3.3 Participants wishing to be considered for a Works Contract must submit a tender complying with the invitation to tender. Tenders must propose resources (including key persons) that are consistent with the Participant's tender proposal for its Framework Agreement.
- 3.4 The award criteria for Works Contracts awarded under a procedure initiated under this Rule 3 will be as follows (with the range of weighting given in brackets):

Lowest Price (100%)

Subject to compliance with the following criteria:

(1) The tender documents submitted by the Applicants establish the maximum daily rate for adequate site supervision, (ref sections 3.4a and 3.4b of the Suitability Assessment Questionnaire QW2), that may be proposed at Mini Competition stage.

Contractors who submit responses to a Mini Competition may reduce the maximum daily rate submitted in this Form of Tender but may not exceed the rate.

This ceiling rate shall be fixed as the maximum rate applying over the initial two-year term of the Framework Agreement only.

(2) Schedules 1 - 4 of this agreement contain details of specific information and checks that may be requested/carried out by the Employer prior to award at mini competition stage.

In instances where two or more Contractors are equally ranked, the Employer reserves the right to either;

- Ask the equally ranked Contractors to resubmit prices and continue this process until there is a clear winner

Or

- Divide the mini tender between the equally ranked Contractors, if two or less,

Or

- Re-tender the mini-competition

The above criteria are not listed in order of importance. The Employer may attach different weightings to them for different Works Contracts, depending on the service requirement, and will indicate the weightings in the invitation to tender.

4. **Performance Review, Termination and Promotion**

- 4.1 On completion of each Works Contract, the Participant concerned must collate and provide to the Employer the information required for the Employer to review that Participants' performance according to the attached Performance Measurement Table. The Employer may review Participants' performance of their Works Contracts and the Framework Agreement at the end of each year of the Framework Period, according to the attached Performance Measurement Table.
- 4.2 If a Participant has reached 'Failure Level 1' for any indicator according to the attached Performance Measurement Table, the Employer may give that Participant a written Warning Notice and may exclude that Participant from further competitions until the Participant has demonstrated to the Employer's satisfaction that it has implemented steps to redress the problem.
- 4.3 If a Participant
- receives two Warning Notices during the Framework Period or
  - has reached 'Failure Level 2' for any indicator according to the attached Performance Measurement Table
- the Employer may terminate that Participant's Framework Agreement.
- 4.4 The Employer may give each Participant details of the result of its annual performance review, and of the average results for each item and the average overall score.

## Performance Measurement Table

No	Employer's objective	Indicator	Measurement Period	Failure Level 1 (Rule 4.2)	Failure Level 2 (Rule 4.3)
1.	Satisfactory completion of task	Substandard work requiring remedial action disallowing the issue of the Reoccupation Certificate within the Contract Period or Defects Certificate as per Condition 3.15. of PW-CF6 Short Form of Contract	Term	1	2
2.	Satisfactory completion of task contd...	Failure to satisfactorily complete any element within the Works Requirements disallowing it to be included in an application for payment.  Failure of early notification to client or Employers Representative of additional works not included in contract as per condition 4.7 of PW-CF6 Short Form of Contract	Term	2	3
3.	Compliance with programme	Failure to mobilise on agreed date for reasons other than client's deferral as per Condition 2 of PW-CF6 Short Form of Contract  Failure to complete task within the contract period as adjusted under the terms of the of PW-CF6 Short Form of Contract	Term	2	3
4.	Health and Safety Performance	Failure to provide notifications to HSA including Safety and Health Plan, Method Statements and Risk Assessments.  Failure to comply with Condition 6 of PW-CF6 Short Form of Contract  Failure to address or rectify non-conformance issues identified by ARCA/OPW during annual office/site audits.	Term	1	2
5.	Contract Administration	Failure to respond to 3 consecutive invitations to tender.  Failure of contractor to provide applications for payment consistent with condition 4 of PW-CF6 Short Form of Contract	Term	2	3

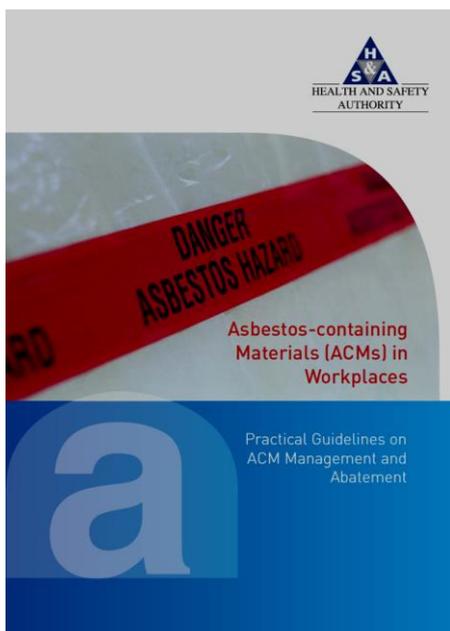
# SCHEDULE 1 – LEGISLATIVE REQUIREMENTS & BEST PRACTICE GUIDELINES

## 1.0 General

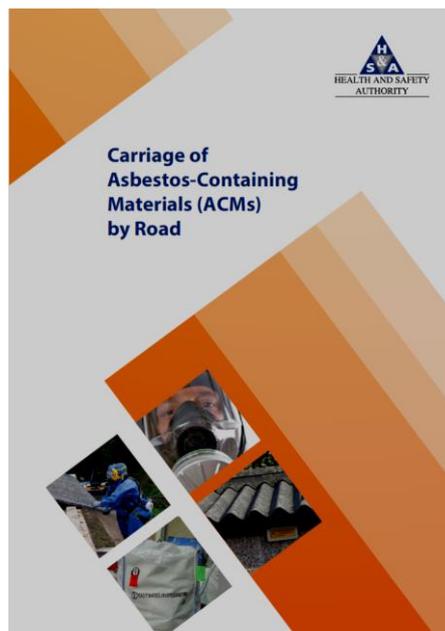
1.01 All works undertaken shall be in full compliance with the following legislation:

- (i) Safety, Health and Welfare at Work Act, 2005 (S.I. No. 10 of 2005)
- (ii) Safety, Health and Welfare at Work (General Application) Regulations, 2007 as amended (S.I. No. 299 of 2007 & S.I. No. 732 of 2007)
- (iii) Chemicals (Asbestos Articles) Regulations 2011 (S.I. No. 248 of 2011)
- (iv) The Safety, Health & Welfare at Work (Exposure to Asbestos) (Amendment) Regulations, 2010 (S.I. No. 589 of 2010)
- (v) The Safety, Health & Welfare at Work (Exposure to Asbestos) Regulations, 2006 (S.I. No. 386 of 2006)
- (vi) The Safety, Health & Welfare at Work (Construction) Regulations, 2013 (S.I. No. 291 of 2013).
- (vii) REACH Regulation (EC) No. 1907/2006 amended by Regulation (EC) No. 552/2009
- (viii) Safety, Health and Welfare at Work (Chemical Agents) Regulations, 2001 (S.I. No. 619 of 2001).
- (ix) Safety Health and Welfare at Work (Carcinogens) Regulations, 2001 (S.I. No. 078 of 2001)
- (x) European Communities (Carriage of dangerous goods by road & use of transportable pressure equipment regulations, 2011 (S.I. No. 349 of 2011)
- (xi) Air Pollution Act, 1989.
- (xii) The Construction Product Regulations 2013

1.02 In addition all Contractors should familiarise themselves with the following Health & Safety Authority (HSA) best practice guidance publications in relation to asbestos containing materials :



Practical Guidelines on ACM Management & Abatement



Carriage of ACM's By Road

## SCHEDULE 2 – TECHNICAL REQUIREMENTS

### 2.0 General

- 2.01 Contractors must have an appropriate qualification and adequate relevant experience.
- 2.02 In all instances it is the absolute responsibility of the Contractor to be able to unambiguously demonstrate that a proper standard of workmanship has been executed, that the persons who have undertaken the works are competent, possessing sufficient training, experience and knowledge appropriate to the nature of the work that has been performed and having particular regard to the size and complexity of such works.

### 2.1 Contracting Authority checks prior to award at Mini Competition

- 2.1.1 The following are details of the site specific checks and associated substantiation that may be requested by the HSE prior to Award at Mini Competition stage:
- (i) Confirmation that there has been no change in circumstances that might affect the validity of any of the statements in any of the Declarations returned at Framework Application Stage. Namely Appendix A, B1, B2, B3, C1, C3, C4, D, E (Amended), F, G & H to the Suitability Assessment Questionnaire QW2 and associated Supplements, or information submitted in lieu of these declarations.
  - (ii) Confirmation and associated evidence of **up to date** membership of relevant trade associations e.g. ARCA or equivalent, by demonstrating that information provided in response to section 3.2 of the Suitability Assessment Questionnaire QW2 at framework application stage **is up to date**.
  - (iii) Confirmation and associated evidence of, **up to date** accredited training for **the individual employee or third party** fulfilling the role of Project Supervisor Construction Stage (PSCS), specifically in relation to asbestos removal works.
  - (iv) A copy of the current company training register indicating the full list of training undertaken by each employee, inc information on dates, certification of training and training provider, duration etc.
  - (v) Details of third parties employed in the completion of works projects, e.g. external testing houses, environmental monitoring contractors, independent analysts, etc.
  - (vi) Details of the proposed authorised collection and transport contractor for asbestos containing materials including relevant waste collection permit number/s.
  - (vii) Details of any proposed authorised company undertaking the disposal of asbestos containing materials on behalf of the contractor, including details of the permit/license authorising same.
  - (viii) A detailed register of all equipment, relevant to the work type in the ownership of the contractor.
  - (ix) An Appendix of Performance and service/calibration/maintenance history for each item of equipment cross referenced with the equipment register.
  - (x) Details of certified RPE and PPE used by the contractor including copies of current Face Fit Certificates for RPE Construction Product Regulations – up to three (3) no examples may be requested.
  - (xi) A copy of the register of issue and confirmation of acceptance by employees for this RPE/PPE – up to three (3) no examples may be requested.

## SCHEDULE 3 - MINI-COMPETITIONS

### 3.0 General

- 3.01 Under this Framework, the HSE will award Contracts by Mini-Competition only.
- 3.02 **Only Contractors included on the Framework will be invited to tender for mini competitions.**
- 3.03 The HSE shall issue the Mini-Competition to all Contractors appointed to the Framework via the [www.supplygov.ie](http://www.supplygov.ie) system.
- 3.04 Contractors listed on the Framework may only submit one tender in response to a Mini-Competition Request for Tender.
- 3.05 Contractors shall comply with any procedures, processes, time limits, instructions or other requirements as issued by the HSE in relation to the Mini-Competition and shall bear any and all costs associated therewith. Contractors shall be required to meet the requirements as published for each Contract and to complete or submit all other information as requested prior to the award of any contract.

### 3.1 Mini-Competition – Evaluation Criteria

- 3.1.1 Contractors should note that a detailed site specific questionnaire may be included at Mini-Competition stage for the purposes of assessing compliance with health and safety criterion; this will be in addition to the information requested at frameworks application stage.
- 3.1.2 In all instances submissions at Mini-Competition stage shall be assessed against the following minimum criteria:

<i>Mini Competition – Minimum Suitability Criteria</i>	<i>Weighting</i>
<p><b>Proposed Project Team and Availability</b></p> <p>Provide confirmation in writing on company headed paper that the Contractor has the required resources available to complete the Asbestos Removal &amp; Disposal works within the specified timeframe, respecting the nominated start and finish date outlined in the Request for Tender documents.</p>	<b>Pass/Fail</b>
<p><b>Details of Service Providers Proposed Project Team</b></p> <p>Provide details of the staff assigned to perform the contract in the form of an Organogram of the Project Team</p>	<b>Pass/Fail</b>
<p><b>Additional Information &amp; Evidence</b></p> <p>Provide confirmation in writing on company headed paper that the Contractor can provide the information and/or evidence detailed in paragraphs i) to xi) of Section 2.1 of Schedule 2 – Technical Requirements included in the Framework Agreement, when requested to do so by the HSE prior to the award of the contract.</p>	<b>Pass/Fail</b>
<p><b>Site Specific Requirements</b></p> <p>Provide confirmation in writing on company headed paper that the Contractor can meet the site specific requirements detailed in the Mini Competition Request For Tender.</p>	<b>Pass/Fail</b>
<p><b>Safety Statement</b></p> <p>The company's Safety Statement or equivalent document submitted at Framework application stage will be assessed for compliance with the provisions set out in the Safety, Health &amp; Welfare at Work Act 2005 and enforcing Regulations.</p>	<b>Pass/Fail</b>
<p><b>Project Supervisor for the Construction Stage (PSCS)</b></p> <p>Upload confirmation in writing on company headed paper that the Contractor has examined the preliminary Safety &amp; Health Plan issued with the Mini-Competition, and agrees prior to the award of the Contract, to -:</p> <ul style="list-style-type: none"> <li>• be appointed in writing as PSCS for the works as specified by the Safety, Health and Welfare at Work (Construction) Regulations 2013</li> </ul>	<b>Pass/Fail</b>

<ul style="list-style-type: none"> <li>• confirm acceptance of the PSCS role in writing</li> <li>• prepare the Construction Stage Safety &amp; Health Plan for the works that shall demonstrate an effective means of ensuring the implementation of the plan by the PSCS</li> <li>• comply with his/her obligations in regard to notifying the Health &amp; Safety Authority</li> <li>• confirm identity of the competent person carrying out the role of PSCS</li> </ul>	
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**3.2 Mini Competition - Award Criteria**

3.2.1 Contractors that satisfy Mini Competition Evaluation criteria above will be assessed in accordance with the award criteria set out below. Contractors shall be awarded works at Mini Competition in accordance with the following criteria:

<i><b>Award Criteria for Mini Competitions</b></i>	<i><b>Percentage Weighting</b></i>
Price	<b>100%</b>
<p><b>Subject to compliance with the following criteria:</b></p> <p>The ceiling rate provided in the Form of Tender will establish the maximum daily rate for adequate site supervision, (ref sections 3.4a and 3.4b of the Suitability Assessment Questionnaire) that may be proposed at Mini-Competition stage. Contractors who submit responses to a Mini Competition may reduce the maximum daily rate submitted in the Form of Tender but may not exceed the rate. This ceiling rate shall be fixed as the maximum rate applying over the initial two year term of the Framework only.</p>	

- 3.2.2 In instances where two or more Contractors are equally ranked the HSE reserves the right to either;
- Ask the equally ranked Contractors to resubmit prices and continue this process until there is a clear winner, **Or**
  - To divide the mini tender between the equally ranked Contractors, if two or less, **Or**
  - Re-tender the Mini-Competition
- 3.2.3 The acknowledgement of receipt of any Mini Tender shall not constitute an actual or implied agreement between the Contractor and the HSE.
- 3.2.4 It is intended that Contractors performance at Mini Competition stage will be monitored. Where any Contractors fail to perform satisfactorily at Mini Competition the Contract may be terminated and the Contractor may be eliminated from the Framework. Please refer to Section 4, Framework Rules - Performance Review, Termination & Promotion, within the HSE Framework Agreement for Asbestos Removal and Disposal Contractors for full details of contract and performance review mechanisms.

## **SCHEDULE 4 – AMENDMENTS TO THE FRAMEWORK AGREEMENT**

<b>Reference</b>	<b>Amendment</b>
<b>Agreement</b>	Shall mean Framework Agreement
<b>Invitation to Tender</b>	Shall mean Request for Tender for a Mini Competition
<b>Clause 4 of the Agreement</b>	Valid Tax Certificate shall mean a <u>Tax Clearance Access Number and Contractor's PPSN/Tax Reference number (TRN Number)</u> - To allow for determination of tax compliance.
<b>Warning Notice</b>	Shall mean formal written notification from the Employer or its nominated representatives that it has become aware of a matter which if not resolved may lead to the Contractor reaching 'Failure Level 1' for any indicator according to the Performance Measurement Table in Section 4 of the Framework Rules.
<b>Framework Rule No.3</b>	The term 'call off by competition' shall mean 'Mini Competition'