

# **TERMS & CONDITIONS**

FOR

**REQUEST FOR APPLICATIONS**

**FOR APPOINTMENT TO A**

**MULTI-PARTY FRAMEWORK AGREEMENT**

FOR

**MINOR BUILDING WORKS - RESIDENTIAL  
– PUBLIC SERVICE BODIES**

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# 1.0 IMPORTANT NOTES

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## 1.1 GENERAL

- 1.1.1 The Local Government Operational Procurement Centre (LGOPC)<sup>1</sup> acting as a Central Purchasing Body (CPB)<sup>2</sup> under the auspices of Kerry County Council is coordinating the establishment of a Framework Agreement<sup>3</sup> of Minor Building Works Contractors<sup>4</sup> for works on Public Service Residential Properties on behalf of Contracting Authorities<sup>5</sup>.
- 1.1.2 The Terms and Conditions listed in this document form part of the overall Tender Documents<sup>6</sup> for this competition and apply to appointment to the Framework Agreement as well as the mini competitions run under a Supplementary Request for Tender<sup>7</sup> (hereafter referred to as an 'sRFT').
- 1.1.3 The appointment to this Framework Agreement is being made by a process of competitive tender using the Open Procedure. The regulatory framework applicable to the Application<sup>8</sup> process comprises Directive 2014/24/EC of the European Parliament and of the Council, on public procurement, implemented into Irish law by European Union (Award of Public Authority Contracts) Regulations SI No. 284 of 2016.
- 1.1.4 The information provided in this document is offered in good faith for the guidance of the Tenderer<sup>9</sup>/Contractor participating in this tender competition. The content is for information purposes only and may not be used for any purpose save for this tender competition.
- 1.1.5 No part of the Tender Documents, in whole or in part, may be reproduced, stored, transmitted, or used without the prior written permission of the LGOPC (which may be withheld in its sole discretion).
- 1.1.6 These Terms & Conditions are a summary of available information and no reliance shall be placed on any information or statements contained herein, and no representation or warranty, express or implied, is or shall be made in relation to the completeness, accuracy or functioning of the information contained in these Terms and Conditions, nor as to the reasonableness of any assumption made in preparing this information. Without prejudice to the foregoing, neither LGOPC nor their advisers, consultants, contractors, servants and/or agents shall have any liability or responsibility in relation to the accuracy, adequacy or completeness of such information or any statements made. For the avoidance of doubt, Tenderers/Contractors should not assume that any such information or statements shall remain unchanged.
- 1.1.7 The LGOPC is not bound by any anomalies, errors or omissions. Tenderers/Contractors shall immediately notify the LGOPC should they become aware of any ambiguity, discrepancy, error or omission in the Tender Documents. The LGOPC shall, upon receipt of such notification, notify all Tenderers/Contractors of its ruling in respect of any such ambiguity, discrepancy, error or omission. Such ruling shall be issued in writing and may at the LGOPC's sole discretion form part of the Framework Agreement.
- 1.1.8 By participating in this tender, the Tenderer acknowledges that there does not exist any contractual, implied or quasi-contractual relationship between the LGOPC and the Tenderer prior to the execution of the Framework Agreement nor will there exist any contractual, implied or quasi-contractual relationship

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<sup>1</sup> The LGOPC is responsible for the development and implementation of all Central Purchasing Mechanisms for the Category Councils of Plant Hire and Minor Building Works & Civils as established by the Office of Government Procurement.

<sup>2</sup> means a contracting authority or a contracting entity within the meaning of Regulation 2(1) of the European Union (Award of Public Authority Contracts) Regulations 2016 providing centralised purchasing activities and, possibly, ancillary purchasing activities who is participating in the Framework Agreement.

<sup>3</sup> means the Agreement that Tenderers will be required to enter if successful in their Application to participate in the Framework Agreement.

<sup>4</sup> means Tenderers admitted to the Framework Agreement and shall have the same meaning as Supplier on the [www.supplygov.ie](http://www.supplygov.ie) system.

<sup>5</sup> means the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law who are participating on this Framework Agreement.

<sup>6</sup> means the Instructions Document, Online Qualification Questions, Pricing Document, Terms & Conditions and Framework Agreement

<sup>7</sup> means a tender request issued via [www.supplygov.ie](http://www.supplygov.ie) by the Contracting Authority to the Contractors, undertaken in accordance with the procedure set out in the Terms & Conditions.

<sup>8</sup> means an application for admittance to the Framework Agreement submitted via [www.etenders.gov.ie](http://www.etenders.gov.ie) pursuant to the Instructions Document.

<sup>9</sup> means an entity that submits a tender.

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with the Contracting Authority in relation to a sRFT prior to the acceptance by the Contracting Authority of the terms of the sRFT, pursuant to the procedure adopted for the sRFT.

- 1.1.9 The LGOPC reserves the right, without notice:
- To change the basis of, or the procedures (including the timetable) relating to the Framework Agreement;
  - To reject any, or all, of the Applications;
  - Not to invite a Tenderer to proceed further;
  - Not to furnish a tenderer with additional information, or
  - To abandon the tender competition.
- 1.1.10 In respect of the provisions set out in 1.1.9 the LGOPC and its advisors shall not be liable to any persons as a result thereof. The LGOPC shall not be bound to accept any Application and reserves the right not to form a Framework Agreement in respect of some or all the supplies, works and/or services for which Applications are invited.
- 1.1.11 This tender competition supersedes and replaces all previous documentation, communications and correspondence between the LGOPC and Tenderers/Contractors in relation to the subject matter of this tender competition, and Contractors should place no reliance on such previous documentation and correspondence.
- 1.1.12 The LGOPC will not accept responsibility for information relayed (or not relayed) via third parties.
- 1.1.13 Each Tenderers/Contractors cost's will be their sole liability. The LGOPC has no obligation to reimburse the Tenderer in respect of costs incurred by it in the preparation of its Application or otherwise because of its participation in this process, whatsoever or howsoever arising. No part of the Tenderers application will be returned.

## **1.2 COMPANY REGISTRATION DETAILS**

- 1.2.1 Where a Tenderer is registered with the Companies Registration Office (the 'CRO') ([www.cro.ie](http://www.cro.ie)) then they must ensure that:
- The registered company name and address as recorded on ([www.cro.ie](http://www.cro.ie)) is used in all parts of the Application (where appropriate);
  - The company name included on [www.supplygov.ie](http://www.supplygov.ie)<sup>10</sup> must also match the company name as recorded on ([www.cro.ie](http://www.cro.ie)).
- 1.2.2 Where a Tenderer is not registered with the Companies Registration Office ('the CRO') ([www.cro.ie](http://www.cro.ie)) then they must ensure that-:
- The company name and address as registered with their VAT Registration Number is used in all parts of the Application (where appropriate);
  - The company name included on [www.supplygov.ie](http://www.supplygov.ie) must match the company name as registered with their VAT Registration Number.
- 1.2.3 It is the responsibility of the Tenderer to ensure that any errors or inconsistencies in the above information are corrected prior to admittance to the Framework Agreement. In the event that the company details submitted by the Tenderer do not match the details registered on the CRO, the Tenderer details will be amended by the LGOPC in line with the CRO on the Contractors account on [www.supplygov.ie](http://www.supplygov.ie).

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<sup>10</sup> SupplyGov.ie is an online procurement platform which facilitates public sector and state agencies in the procurement of goods, works and services from Suppliers (incl. Contractors and Service Providers). The website has been developed by the Local Government Operational Procurement Centre (LGOPC) to streamline the procurement process of contracting authorities in respect of the operation of local authority led Category Councils for Plant Hire and Minor Building Works & Civils.

### **1.3 RELIANCE ON THE CAPACITIES OF OTHER ENTITIES**

- 1.3.1 With regard to the suitability assessment criteria relating to the economic & financial standing and technical & professional ability set out in the online application process for this tender competition, a Tenderer may rely on the capacities of other entities, regardless of the legal nature of the links between the Tenderer/ Contractor and those other entities.
- 1.3.2 Reliance on the capacity of other entities is limited to the specific criterion identified in the online qualification questions.
- 1.3.3 A Tenderer may only rely on the capacities of other entities where those entities will perform the works and/or services for which these capacities are required.
- 1.3.4 Where a Tenderer wants to rely on the capacities of other entities, it shall demonstrate to the LGOPC and/or the Contracting Authority that it will have at its disposal the resources necessary, including by producing a commitment by those entities to that effect. Where a Tenderer is relying on the capacity of another entity or entities, such entity or entities must provide joint and several liability to the Central Purchasing Body and/or the relevant Contracting Authority for the performance and fulfilment of the terms of the Framework Agreement and any contracts awarded in accordance with the Framework Agreement. This may take the form of a guarantee, letter of reliance or other form of commitment as directed by the Central Purchasing Body and/or Contracting Authority.
- 1.3.5 Tenderers responding to this tender competition must provide the necessary details and proof required, as set out in the online Application process.

### **1.4 CONSORTIUM/JOINT VENTURE**

- 1.4.1 A consortium/joint venture will not be required to convert into a specific legal form to make a tender application but may be required to do so prior to admittance to the Framework Agreement. The LGOPC may:
- Contract with one Contractor who will carry overall responsibility for the performance of the works and/or services;
  - Contract with each member of the consortium/joint venture based on joint and several liabilities;
  - Contract with one member of the consortium/joint venture and the other members will be Subcontractors<sup>11</sup>; or
  - At its discretion, require the consortium/joint venture to enter into any other contracting arrangement.

### **1.5 EUROPEAN SINGLE PROCUREMENT DOCUMENT (ESPD)**

- 1.5.1 The ESPD is a self-declaration by Tenderers consisting of a formal statement by the Tenderer that the relevant grounds for exclusion do not apply, that the relevant selection criteria are fulfilled and that it will provide the relevant information as required by the LGOPC.
- 1.5.2 Submission of an ESPD for this tender competition is at the discretion of the Tenderer – if a Tenderer intends to submit an ESPD, it shall comply with these instructions.
- 1.5.3 In accordance with Regulation 59 of the European Union (Award of Public Authority Contracts) Regulations 2016, the Contracting Authority shall accept a European Single Procurement Document (ESPD) as preliminary evidence confirming that the Tenderer fulfils the following conditions-:
- it is not in one or more of the situations referred to in Regulation 57 in which the entity<sup>12</sup> shall or may be excluded; and

<sup>11</sup> A person to whom the execution of part of the Works is subcontracted (by the Contractor or another subcontractor).

<sup>12</sup> means 'economic operator' as defined in EU Directive 2014/24 – EU Procurement Directive.

- it meets the relevant criteria for qualitative selection as defined in the Tender Documents.

- 1.5.4 The ESPD shall be provided exclusively in electronic form and shall be drawn up based on a standard form established by the European Commission.
- 1.5.5 If the information required for the tender application is not included in the ESPD, the Tenderer will be obliged to submit the required information under separate cover potential Tenderers must examine this information carefully in view of their participation and possible submission of an ESPD.
- 1.5.6 If a Tenderer proposes to submit an ESPD and it is relying on the capacities of one or more other entities, those entities must also each submit an ESPD setting out the relevant information for the respective entity.
- 1.5.7 In addition, where a group of entities, including temporary associations, participate together in this tender competition and they intend to submit an ESPD, a separate ESPD must be submitted for each of the participating entities.
- 1.5.8 An ESPD is not required for Subcontractors on whose capacities the tenderer does not rely. Tenders shall note that information concerning proposed Subcontractors and completed Personal Situation Declaration Forms will be required at sRFT stage.

## **1.6 SUBCONTRACTING**

- 1.6.1 Contractors responding to a sRFT must provide the necessary details and proof required, as set out in the 'Qualification questions' included with the Tender Documents.
- 1.6.2 The Contracting Authority may take appropriate measures by, amongst other things, verifying in accordance with the provisions in the Regulations, whether there are grounds for exclusion of Subcontractors under Regulation 57 of the 2016 Regulations.
- 1.6.3 At sRFT stage, the Contractor must indicate to the Contracting Authority the qualifications and experience of Contractors Personnel<sup>13</sup> it proposes for completion of the works and/or services defined in the sRFT.
- 1.6.4 When responding to a sRFT, where Subcontractors/Specialists<sup>14</sup> are proposed for completion of parts of the works and/or services, the Contractor shall indicate to the Contracting Authority the name, contact details and legal representatives of the subcontractor/s.

## **1.7 TAX COMPLIANCE**

- 1.7.1 All payments under a contract awarded pursuant to a sRFT will be conditional on the Contractor being tax compliant.
- 1.7.2 Contractors must comply with the terms of the Department of Finance Circulars 43/2006 and 44/2006: Tax Clearance Procedures: Public Sector Contracts, or any replacement Circulars in this regard.
- 1.7.3 In line with the legislative provisions of Section 95 of the Finance Act 2014, the following provisions in relation to eTax Clearance Certificates have been brought into force by Revenue, effective from December 2015 -:
- Processing of tax clearance applications, certificates issued by the Collector-General and verification by third parties, is all in electronic format; and
  - Where a taxpayer is found to be non-compliant with their obligations their tax clearance certificate can be rescinded (or withdrawn).

<sup>13</sup> The Contractor's representative, supervisor and Subcontractors, employees and other persons working on or adjacent to the site for the Contractor or Subcontractors, and other persons assisting the Contractor to perform the Contract.

<sup>14</sup> means a Subcontractor or supplier of a Works Item named in the Contract and/or Contractor's Personnel who do or are to do design, and/or Contractor's Personnel stated in the works requirements to be Specialists.

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- 1.7.4 eTax Clearances will be available to business, PAYE and non-resident customers with a PPSN/Tax Reference number (TRN). There is no change to the current process for customers/Contractors that are not registered for Irish tax, i.e. Non-residents or some community/voluntary groups. These applications will continue to be processed by the Collector General's Office. Furthermore, eTax Clearance does not apply to Standards in Public Office (SIPO) Contractors.
- 1.7.5 Applications in eTax Clearance will be processed in real time. Contractors who are tax compliant will receive a Tax Clearance Access Number. This number along with the Contractor's PPSN/Tax Reference number (TRN Number) shall be provided when requested to the Contracting Authority as verification of their tax clearance details.
- 1.7.6 Subcontractors engaged at sRFT stage are required to produce an in-date (not older than 30 days) Notification of Determination<sup>15</sup> to the Contracting Authority or the principal Contractor, before any contract is awarded. Contractors requiring further information on demonstration of satisfactory level of subcontractor tax compliance and Notifications of Determination under Section 530I of The Taxes Consolidation Act, 1997 (as amended) should contact their local Revenue office. Contact details are available on the Revenue website at [www.revenue.ie](http://www.revenue.ie).

## **1.8 EMPLOYEES**

- 1.8.1 Contractors shall comply with all statutory requirements in relation to PAYE and PRSI and shall ensure that the rates of pay and the conditions of employment, including pension contributions, comply with all applicable law. The rates of pay and conditions of employment shall be at least as favourable as those for the relevant category of worker in any sectoral employment orders, employment regulation orders or registered employment agreements.
- 1.8.2 Contractors shall also be aware that they may be asked to provide evidence prior to commencing any works and/or services of membership of a pension and sick pay scheme for all Contractors Personnel that will be employed to work on the relevant sRFT.

## **1.9 STATUTORY OBLIGATIONS AND APPLICABLE LAW**

- 1.9.1 Contractors are advised that EU and national legislation applies in respect of matters such as employment, working hours, official secrets, data protection and health and safety. Contractors must have regard to statutory terms relating to minimum pay and to legally binding industrial or sectoral agreements in preparing tenders.
- 1.9.2 The laws of Ireland will govern this competitive process. This competitive process, any resulting Framework Agreement and any resulting contract will be subject to the exclusive authority of the Irish Courts.

## **1.10 FREEDOM OF INFORMATION ACTS**

- 1.10.1 The LGOPC and Contracting Authorities are subject to the Freedom of Information Act 2014 and the Tenderer/ Contractor acknowledge that information provided in response to this tender and/ or the sRFT may be disclosed in accordance with the Freedom of Information Act 2014.
- 1.10.2 Tenderers are asked to consider if any of the information supplied by them in response to this tender should not be disclosed because it is commercially sensitive or confidential. If this is the case, Tenderers can, when providing the information, identify same and specify the reasons for its commercial sensitivity or confidentiality. The LGOPC will have regard to such a statement but are not bound by it.

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<sup>15</sup> means the rate of tax that applies to the subcontractor and the tax credits that reduce the tax payable.



### **1.11 CANVASSING**

- 1.11.1 Canvassing or any effort by a Tenderer to influence any staff or agents of the LGOPC in relation to any aspect of the Application process may result in automatic disqualification from the Application process.
- 1.11.2 Where a Tenderer/ Contractor has an existing relationship with the LGOPC, a Contracting Authority or its employees, the Tenderer/ Contractor is advised that any discussions, correspondence, or other influences on the Application process may be treated as canvassing.
- 1.11.3 In accordance with Section 38 of the Ethics in Public Office Act 1995 any money, gift or other consideration from a person holding or seeking to obtain a contract will be deemed to have been paid or given corruptly unless the contrary is proved.

### **1.12 CONFLICTS OF INTEREST AND REGISTRABLE INTEREST**

- 1.12.1 Any actual or potential conflict of interest involving a Tenderer/Contractor (whether because of the Tenderer/ Contractor having or having had a role in the LGOPC and/or the Contracting Authority in relation to the contract or because of the Tenderer/ Contractor having or having had an interest in another Tenderer/ Contractor or another Tenderer/ Contractor having or having had an interest in the Tenderer/ Contractor or any other situation creating a conflict of interest, actual or potential) must be fully disclosed by the Tenderer/ Contractor as soon as it becomes apparent. The LGOPC and/ or Contracting Authority reserves the right to raise conflict of interest issues with Tenderers/ Contractors.
- 1.12.2 Where the LGOPC and/or the Contracting Authority consider that the situation does not give rise to a conflict of interest or that the conflict of interest is not material, it will permit the situation to continue.
- 1.12.3 Where the LGOPC and/or the Contracting Authority consider that the situation gives rise to a material conflict of interest, it may, at its sole discretion, permit the situation to continue subject, if necessary, to appropriate safeguards being agreed between the LGOPC and/or the Contracting Authority and the Contractor and the LGOPC and/or Contracting Authority being fully satisfied that those safeguards have been put in place and will be complied with.
- 1.12.4 Where the LGOPC and/or the Contracting Authority considers, in its absolute discretion, that the situation can only be remedied by the exclusion of the Tenderer/ Contractor from the Application or sRFT process, the LGOPC and/or the Contracting Authority shall exclude the Tenderer.
- 1.12.5 Any registrable interest involving the Tenderer and the LGOPC or their relatives must be fully disclosed or must be communicated to the LGOPC immediately upon such information becoming known to the LGOPC, in the event of this information only coming to the Tenderer's notice after the submission of an Application and prior to the award of the Framework Agreement. The terms 'registrable interest' and 'relative' shall have the meaning prescribed by the Ethics in Public Office Act 1995.

### **1.13 CONFIDENTIALITY**

- 1.13.1 All documents issued and information given to Tenderers/ Contractors must be treated as strictly confidential. Tenderers/ Contractors should not release details of the Tender Documents other than on an "In Confidence" basis to those who have a legitimate need to know or whom they need to consult for preparing their Application.

### **1.14 DATA PROTECTION**

- 1.14.1 In this clause, "Data Protection Laws" means the Irish Data Protection Acts 1988 to 2018, the General Data Protection Regulation (EU) 2016/679 ("GDPR"), any other applicable law or regulation relating to the processing of personal data and to privacy, including the E-Privacy Directive and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 ("E-Privacy Regulations"), as such legislation shall be supplemented, amended, revised or replaced from time to time.

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- 1.14.2 The Contracting Authority and the LGOPC will each be an independent Data Controller (where Data Controller has the meaning given under the Data Protection Laws) in respect of any Personal Data (where Personal Data has the meaning given under the Data Protection Laws) required to be provided by the Tenderer in response to this call for tender competition and Supplementary Requests for Tender.
- 1.14.3 The Tenderer, as Data Controller in respect of any Personal Data provided by it in its Tender, is required to confirm that all Data Subjects (where Data Subject has the meaning given under the Data Protection Laws) whose Personal Data is provided by the Tenderer have consented to the processing of such Personal Data by the Tenderer, the LGOPC, the Contracting Authority, the Evaluation Team and the supplier of the [www.supplygov.ie](http://www.supplygov.ie) website for the purpose of the participation of the Tenderer in this tender competition or that the Tenderer otherwise has a legal basis for providing such Personal Data to the foregoing for the purpose of its participation in this tender competition.
- 1.14.4 The Contracting Authority and the LGOPC, each as an independent Data Controller, may process the Personal Data as follows:
- by the Contracting Authority disclosing data (including Personal Data of tenderers and/or their employees or other related third-party agents such as those persons names, contact details, work experience etc.) to the LGOPC.
- 1.14.5 The Contracting Authority, as an independent Data Controller, may share the Personal Data as follows:
- share such Personal Data with other bodies within the public and/or semi-state sectors that use the [www.supplygov.ie](http://www.supplygov.ie) service as required by this Framework. The list of such public and/or semi-State bodies is maintained on [www.supplygov.ie](http://www.supplygov.ie) and is updated from time to time. In addition, such Personal Data may be shared with the Office of Government Procurement, the Local Government Management Agency and with other bodies as required under law.
- 1.14.6 The Contracting Authority and the LGOPC shall enter into a Data Sharing Agreement, which shall govern the sharing of the Personal Data between them, and their respective rights, obligations and liability in relation to this.
- 1.14.7 The Tenderer shall be individually responsible, as an independent Data Controller, for its own processing of the Personal Data included in the tender and must fully comply with its obligations as a Data Controller under the Data Protection Laws in this regard.
- 1.14.8 Neither the Tenderer or the LGOPC shall be construed as a Data Processor (where Data Processor has the meaning given under the Data Protection Laws) in relation to the other, unless the conditions for processing of the Personal Data change so that one party processes Personal Data on behalf of and on the instructions of the other party.
- 1.14.9 The Tenderer and the LGOPC shall not be construed as Joint Data Controllers unless the conditions for processing of the Personal Data change such that the parties in conjunction with one another jointly, in a collaborative fashion, determine the purposes and means of processing the Personal Data.
- 1.14.10 The Tenderer will inform the LGOPC as soon as possible of any requests from Data Subjects regarding rectification or erasure of Personal Data included in a Tender, or restriction of or objection to the processing of such Personal Data for the purposes set out herein. The Tenderer shall, to the extent that such a request affects the processing of such Personal Data by the LGOPC, provide reasonable assistance to the LGOPC to enable compliance with the Data Protection Laws. Notwithstanding the foregoing, the Tenderer shall remain responsible itself for dealing with requests from Data Subjects in respect of Personal Data, to the extent that such requests are directed by the Data Subject to the Tenderer (or any of its agents, employees or sub-contractors).
- 1.14.11 The Tenderer shall notify the LGOPC immediately if the Tenderer becomes aware of, or suspects: (i) any breach of this section; or (ii) a Personal Data breach which is likely to affect or invoke the LGOPC's obligations under the Data Protection Laws, or (iii) any situation or envisaged development that shall in any way influence, change or limit the processing of the Personal Data included in the Tender for the purposes set out herein. The Tenderer shall document all Personal Data breaches in accordance with the Data Protection Laws and fully cooperate with the LGOPC to ensure compliance with the Data Protection Laws. The Tenderer shall use reasonable endeavours to mitigate any damage suffered by a Data Subject in these circumstances.

- 1.14.12 The Tenderer hereby indemnifies the LGOPC against all claims, liabilities, costs, expenses, damages and losses suffered or incurred by the LGOPC arising out of or in connection with any breach by the Tenderer (or any of its employees/agents/sub-contractors) of any terms of this section, or its obligations under the Data Protection Laws, or any use by the Tenderer of the Personal Data. This Clause is intended to apply to the allocation of liability for losses relating to the Data Protection Laws as between the LGOPC and the Tenderer, including with respect to compensation to Data Subjects, notwithstanding any provisions under the Data Protection Laws to the contrary, except: (i) to the extent not permitted by applicable law (including the Data Protection Laws); and (ii) that it does not affect the liability of either party to any Data Subject.

## **1.15 INSURANCE**

- 1.15.1 The Contractor shall be liable for and shall indemnify the Contracting Authority for and in respect of all and any losses, claims, demands, damages or expenses which the Contracting Authority may suffer due to and arising directly because of the negligence, act or omission, breach of contract, breach of duty, willful default or fraud of the Contractor and the Contractors Personnel.
- 1.15.2 Tenderers do not need to have the insurances in place when making their application in response to a sRFT but will be required to put those insurances in place prior to the award of any contract should they be successful in a sRFT. The Contracting Authority will not be responsible for any cost incurred by Contractors in putting in place the required insurances.
- 1.15.3 No Contractor shall be awarded a contract under an sRFT unless satisfactory evidence of insurance is submitted prior to contract award by the Contractor's insurance broker/company. Where the insurance policy in question lapses prior to the end of the period of the Framework Agreement it shall be the responsibility of the Contractor to ensure that said policy is renewed.
- 1.15.4 The onus is on the Contractor to advise the Contracting Authority when their insurance has lapsed or has been cancelled. All Contractors must notify the Contracting Authority of alterations, cancellations and confirm renewal of policies. Any failure to do so may result in immediate termination of the Contractor for the duration of the Framework Agreement.

## **1.16 PUBLIC/PRODUCT LIABILITY INSURANCE**

- 1.16.1 The minimum level of Public Liability Insurance required in respect of any one accident below which the Contractor and PSCS will bear the cost:
- €6,500,000 for any one event;
  - Maximum excess: €6,500.
- 1.16.2 The policy shall indicate that the €6,500,000 limit is for any one event. The limit of indemnity under the Public Liability Insurance must be for the full policy limit of €6,500,000. No inner limit reduction is permissible. The maximum permissible excess shall be €6,500 for property only with no excess for death, injury or illness.
- 1.16.3 The policy shall include an indemnity to principal clause.
- 1.16.4 The successful Contractor will be required to include the Contracting Authority as joint insured and may be required to include a non-vitiation clause.
- 1.16.5 The successful Contractor will also be required to extend a public liability policy to include for products and pollution liability insurance to indemnify the Contracting Authority in relation to defective products supplied whether manufactured, altered or just sold by the Contractor.
- 1.16.6 Public Liability Insurance must specifically be extended to include all motor vehicles to which the Road Traffic Acts do not apply (such as rollers, pavers, off site vehicles, etc.), alternatively such vehicles should be scheduled (by vehicle registration or vehicle identification number (VIN) in the motor policy.

## **1.17 EMPLOYER'S LIABILITY INSURANCE**

1.17.1 The minimum level of Employer's Liability Insurance required in respect of any one accident below which the Contractor and PSCS will bear the cost:

- €13,000,000 for any one event;
- Maximum excess: €6,500.

1.17.2 The policy shall meet the following requirements:

- Cover must apply to the employees of the Contractor engaged on the sRFT Contract;
- The liability for death or injury to employees must be covered;
- The cover must indemnify the Contracting Authority as principal and may be required to include a non-vitiation clause;
- Cover must be extended to cover the Contractor in respect of liability assumed by him under the sRFT e.g. The description of the insured business must be unambiguous.

## **1.18 PROFESSIONAL INDEMNITY INSURANCE**

1.18.1 Contractors may be requested to arrange Professional Indemnity Insurance as part of a sRFT.

1.18.2 The minimum level of insurance cover required will vary depending on the scale, nature and complexity of the sRFT. Insurance requirements will be identified in individual sRFT.

1.18.3 Where a Contracting Authority requires a collateral warranty from a Specialist/s, the Contractor shall provide the collateral warranty in a form approved by the Contracting Authority, (e.g. GCCC standard form reference MF 1.12 'Collateral Warranty' executed by the Specialist and the Contractor) or equivalent.

1.18.4 Where required, cover shall:

- be provided on an 'each and every claim' basis;
- be provided in respect of 'joint and several liability';<sup>16</sup>
- provide for claims for breach of professional duty or civil liability as well as negligence;
- be maintained for six (6) years after completion of the Supplementary Request for Tender contract;
- extend to include Specialist advisors engaged as Subcontractors by the Contractor.

1.18.5 Where required, Collateral warranties required from Specialists shall include a requirement to carry professional indemnity insurance if the Specialist is involved in design.

1.18.6 Where required, the policy shall, where appropriate, cover and indemnify the Contracting Authority for all liabilities arising from the performance or non-performance by the Contractor of its duties under the Building Control (Amendment) Regulations, 2014 (BCAR) and for all liabilities arising from the performance or non-performance by the Contractor of its duties as Project Supervisor for the Construction Stage (PSCS).

## **1.19 CONTRACTORS ALL RISKS INSURANCE**

1.19.1 Contractors may be required to arrange Contractors All Risks insurance as part of a sRFT.

1.19.2 Where required, this insurance shall be maintained by the Contractor from the date the Contractor starts the work on a Task until the date of completion of the Task under the sRFT Contract. The insurance policy

<sup>16</sup> If the Contractor consists of a joint venture, consortium or other unincorporated grouping of two or more persons, each person is jointly and severally liable to the Employer for the performance of the Contract.

must insure the relevant works, goods and materials for the works and any Contracting Authority's facilities to be altered or extended by the works against loss or damage.

- 1.19.3 The insurance of the works and goods and materials for the works must be for the full reinstatement value of the property insured, including cost of demolition, removal of debris, deliver, the Contracting Authority's professional fees, profit and inflation during construction and reinstatement periods. The sum insured for professional fees must be at least 15% of the contract value of the works. The amount required for the insurance of the facilities to be altered or extended by the works will be identified in the sRFT.
- 1.19.4 The successful Contractor will be required to include the Contracting Authority as joint insured and may be required to include a non-vitiation clause.

## **1.20 INSURANCE EXCLUSIONS**

- 1.20.1 Contractors that have specific exclusions noted in their insurance policies which restrict or prohibit their ability to carry out certain works and/or services will be required to either:
- Have the exclusion removed from their insurance policy and employ a competent and appropriately insured Specialist to carry out the excluded activity and put in place contingency cover on the Contractor's insurance policy; or
  - Have a Specialist subcontractor included with the Contractor as a full joint insured on the subcontractor's insurance policy and have the Contracting Authority joint insured on the subcontractor's insurance policy. Contractors shall note that the Contracting Authority will not be responsible for any cost incurred by the Contractor in complying with the insurance requirements outlined above.

## **1.21 CONSTRUCTION PRODUCT REGULATIONS**

- 1.21.1 Proof of compliance with these regulations may be sought by the Contracting Authority at any time prior to issuing or during a sRFT Contract. When requested, Contractors shall confirm -:
- That all construction products associated with harmonised Standards will be CE marked and have a Declaration of Performance;
  - That the Contractor by submitting a Declaration of Performance (even if prepared by others) is assuming full legal responsibility for the conformity of the construction product with its declared performance;
  - That together with the technical specification, the Declaration of Performance will give all the information needed to judge whether the product(s) meets the essential characteristics in accordance with the applicable harmonised technical specifications;
  - That the CE mark shall be followed by the two last digits of the year in which it was first affixed, the name and the registered address of the manufacturer, or the identifying mark allowing identification of the name and address of the manufacturer easily and without any ambiguity;
  - That certification of an organisation's Factory Production Control system by a notified body will be available if so required under the regulation and requested.

## **1.22 HEALTH & SAFETY – SAFETY STATEMENT**

- 1.22.1 When requested, prior to the appointment to the Framework Agreement, successful Tenderers must provide a current Safety Statement or equivalent document to the LGOPC for uploading onto Supplygov.
- 1.22.2 The Safety Statement shall be prepared in accordance with Section 20 of the Safety, Health & Welfare at Work Act 2005, and implementing Regulations.
- 1.22.3 The Safety Statement must be signed, dated and include either:
- The Company Registrations Office Company name and address, where applicable i.e. where a Contractor is registered with the Companies Registration Office, ([www.cro.ie](http://www.cro.ie)); or

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- The company name and address as registered with their VAT Registration Number i.e. where a Contractor is not registered with the Companies Registration Office, ([www.cro.ie](http://www.cro.ie)).

### **1.23 CHILD PROTECTION & VETTING**

- 1.23.1 Contractors Personnel shall strictly adhere to the Contracting Authorities child protection policy which will be included with the sRFT documents for the information of Contractors – if applicable.
- 1.23.2 Contractors Personnel may be subject to routine Garda Security Clearance procedures prior to being allowed entry onto certain sites, including but not limited to Local Authority, An Garda Síochána, Health Service Executive, Department of Defense and Department of Education sites. Co-operation with these procedures is mandatory.

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## **2.0 PARTICULARS**

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### **2.1 CONTRACT LIMITS**

2.1.1 Under the Framework Agreement, individual Contracting Authorities utilising PW-CF11 Term Maintenance and Refurbishment Contract shall comply with the limits specified in the Department of Public Expenditure and Reform's Guidance Note to Employer (PW-CF11) v1.1 12/12/2013 as may be amended, re-stated or otherwise modified by OGP from time to time.

### **2.2 DESCRIPTION OF WORKS AT SUPPLEMENTARY REQUEST FOR TENDER STAGE**

2.2.1 Works will involve minor building works within residential properties across the public service as required by Contracting Authorities.

2.2.2 The works will take place within residential environments.

2.2.3 Building works, works may also include elements of work on electrical and mechanical systems, fire alarm systems and building environmental systems etc.

2.2.4 The performance, materials and workmanship for Residential Minor Building Works are set out in the General Specification herein.

2.2.5 The technical requirements set out in the General Specification are non-specific. All Residential Minor Building works shall be undertaken in compliance with the technical standards as detailed and any further technical requirements as set out in the sRFT.

2.2.6 Typical works will include;

- General repair and upgrade to internal and external building elements and fabric;
- General building works;
- Roofing works including but not restricted to structural work, refitting / replacement of roof tiles, slates, roofing membranes and all roof finishes, flashings, valleys, soffit and fascia's, gutters, downpipes etc.;
- Internal and External building modifications and alterations;
- Extensions, refurbishment, alterations, redevelopment and fit out.

2.2.7 Minor building works under this tender may also incorporate works on the following areas which form part of such works:

- Mechanical/ plumbing and electrical works.
- Fire safety works, building environmental systems;
- Plastering, rendering and ceilings;
- Carpentry, joinery and fitted units;
- Windows and doors internal and external;
- Painting, Flooring and finishes;
- Other building related elements required to complete the works;
- Demolition and clearance works;
- External works relating to sewerage, drainage, water mains etc.;
- External works relating to roads, paving, walls, fences, drainage etc.

### **2.3 HEALTH AND SAFETY – CONSTRUCTION DUTY HOLDERS**

2.3.1 The works and/or services to be undertaken as part of the Framework Agreement are categorized as either 'Type 1 or Type 2' projects as defined in the Department of Public Expenditure and Reform's Guidance Note - Suitability Criteria for Works Contractors GN 2.3.1.1 v1.1 01 May 2013.

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- 2.3.2 Contractors appointed to the Framework Agreement must in all instances accept the role of 'Contractor and PSCS' as defined in the Safety, Health and Welfare at Work (Construction) Regulations 2006 – 2013.
  - 2.3.3 Contractors will be required to accept and fulfil the role of 'Project Supervisor Construction Stage (PSCS)' as defined in the Safety, Health and Welfare at Work (Construction) Regulations 2006 – 2013. At sRFT Contract stage, Contractors may be required to complete a PSCS questionnaire similar to the requirements of the BPC 2 Competency Assessment for PSCS/Contractor<sup>17</sup> (as issued by the Contracting Authority). The Contractor will accept the appointment as PSCS by entering into the appointment in the manner set out in the Works Requirements relevant to that sRFT Contract.
  - 2.3.4 Where a Contractor enters a site where they are not the nominated PSCS, they must comply with any directions given by the PSCS and/or Project Supervisor for the Design Process (PSDP).
  - 2.3.5 The Contracting Authority reserves the right to seek proof of additional qualifications/training that are either statutory or deemed necessary for undertaking the role of PSCS. Such proof may need to be provided in response to Contract Evaluation Criteria as applicable and as specified in the sRFT.

## **2.4 HEALTH AND SAFETY – GENERAL**

- 2.4.1 All articles and substances supplied for use at work, including any plant, machine, tool or hazardous substance, shall comply with the requirements of the current Safety, Health & Welfare at Work Act, Regulations, Codes of Practice and Guidance.
- 2.4.2 All Contractors Personnel entering Contracting Authority sites shall have a Safe Pass Card, with SOLAS accreditation or equivalent.
- 2.4.3 The Safe Pass Card and CSCS equivalent qualifications (e.g. CSCS equivalent in Northern Ireland (CSR card)) will also be accepted.
- 2.4.4 Plant operators, as listed in the Schedule 5 of Safety, Health and Welfare at Work (Construction) Regulations 2006 - 2013, must be in possession of a valid Construction Skills Certification Scheme (CSCS) card for the item of plant being operated.
- 2.4.5 All Contractors Personnel operating plant/vehicles shall have a current full driver's license pertaining to the item(s) of plant they are operating. Copies must be available upon request on site on any given day.

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<sup>17</sup> The requirements of the BPC 2 Competency Assessment for PSCS/Contractor are set out in HSA publication 'Clients in Construction Best Practice Guidance 2009'.



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## 3.0 GENERAL SPECIFICATION

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### 3.1 LEGISLATION, REGULATIONS, GUIDELINES AND CODES OF PRACTICE

3.1.1 The Contractor shall comply with all national and EU legislation, Guidelines and Codes of Practice that apply during the construction stage and maintenance period. The contractor shall ensure that, as a minimum, all aspects of the works and project facilities comply with good industry practice, law and all necessary consents including, but not limited to the following:

- The Safety, Health and Welfare at Work Act 2005
- The Safety, Health and Welfare at Work (Repeals)(Commencement) Order, 2015
- The Safety in Industry Act 1980
- The Safety, Health and Welfare at Work (General Applications) Regulations 2007 to 2016;
- The Safety, Health and Welfare of Work (Construction) Regulations, 2006 to 2013;
- Chemicals (Asbestos Articles) Regulations 2011 (S.I. No. 248 of 2011);
- The Safety, Health & Welfare at Work (Exposure to Asbestos) (Amendment) Regulations, 2010 (S.I. No. 589 of 2010);
- The Safety, Health & Welfare at Work (Exposure to Asbestos) Regulations, 2006 (S.I. No. 386 of 2006);
- Safety, Health and Welfare at Work (Chemical Agents) Regulations, 2001 (S.I. No. 619 of 2001);
- Safety Health and Welfare at Work (Carcinogens) Regulations, 2001 (S.I. No. 078 of 2001);
- European Communities (Carriage of dangerous goods by road & use of transportable pressure equipment regulations, 2011 (S.I. No. 349 of 2011);
- Air Pollution Act, 1989;
- The Construction Products Regulations (CPR) 2013 and as amended;
- The Waste Management Acts, 1996 to 2013;
- BS5228:2009 'Code of Practice for Noise Control on Construction and Open Sites';
- Any other recommendation or Code of Practice issued by the Health and Safety Authority;
- Law and good industry practice on Disability including those of the National Disability Authority;
- Fire Services Act 1981;
- Good industry practice in respect of Fire;
- Requirements of utility providers;
- Relevant Irish Standards ("Irish Standards"), British Standards ("British Standards"), Codes of Practice ("Codes of Practice"), EU Directives ("Directives") or equivalent European Standards ("European Standards");
- Local Bye-Laws and Regulations;
- Regulations and requirements of all relevant authorities;
- All BSRIA<sup>18</sup> Publications;
- All HVCA<sup>19</sup> Publications;
- ETCI<sup>20</sup> - National Rules for Electrical Installations Fourth Edition ET101 2008;
- All CIBSE<sup>21</sup> Publications- Guides, Codes, Technical Memoranda, Application Guides, Lighting Guides, etc;
- All ASHRAE guidance for specific Mechanical Systems and Components (where more comprehensive than CIBSE);
- HSE contractor health and safety requirements and procedures.
- ECTI<sup>22</sup> Guidance on Generator installation;

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<sup>18</sup> BSRIA is a UK-based testing, instrumentation, research and consultancy organisation, providing specialist services in construction and building services engineering.

<sup>19</sup> Heating & Ventilating Contractors Association UK.

<sup>20</sup> Electro Technical Council of Ireland.

<sup>21</sup> Chartered Institute of Building Services Engineers.

<sup>22</sup> Electrical Engineering/Electronics, Computer, Communications and Information Technology Association (ECTI)

- ETCI T103 Electrical Installations above 1KV AC & 1.5kv DC;
- Current Edition of IS3218 Fire Alarm & Detection Systems;
- Current Edition of IS3217 Emergency Lighting;

The above is a non-exhaustive list of standards that are being continuously updated and changed. Each project brief and the person accepting responsibility for design shall specify the appropriate and applicable standards and agree them with the Contracting Authority, the Contractor and liaise with the Assigned Certifier<sup>23</sup>.

- 3.1.2 The Contractor will be fully responsible for the quality of the materials and their compliance with the technical requirements as set out in the Tender Documents. Compliance will be verified by use of material conformance testing (remote and in-situ) and reference to the quality management systems within the production plant.
- 3.1.3 The Contractor shall provide for complying with the above including all mandatory notifications and notices for display. Compliance with these regulations, standards and guidelines shall relate to those most up to date or reasonably foreseeable as being in force or published at the time of contract award.
- 3.1.4 The Contractor shall identify any hazards that the design may present during construction and subsequent use and maintenance. Where possible, the hazards shall be eliminated or the risk reduced. Where hazards cannot be eliminated, provision shall be made for control of those risks and the transfer of the necessary information on those control measures and any residual risks together with any design assumptions to the (PSDP).
- 3.1.5 The Contractor shall adhere to and ensure compliance with all relevant product manufacturer's instructions.

## **3.2 BUILDING CONTROL REGULATIONS**

- 3.2.1 The contractor shall ensure compliance with the Building Control Regulations 1997 – 2014, the requirements of the Building Control (Amendment) Regulations 2014, SI 243 of 2012 Energy Performance of Buildings Regulations 2012 and any further amendments to the Regulations having regard to:
- The minimum requirements for the design and construction of buildings as set out in the Building Regulations;
  - Detailed Technical Guidance Documents showing how these requirements can be achieved in practice;
  - Procedures set out in the Building Control Regulations for demonstrating compliance in respect of an individual building or works.
- 3.2.2 The contractor shall comply with relevant Irish Standards and Guidance Documents having regard to the suite of technical guidance documents which accompany the Building Regulations:
- Part A – Structure
  - Part B - Fire Safety
  - Part C - Site Preparation and Resistance to Moisture
  - Part D - Materials and Workmanship
  - Part E – Sound
  - Part F – Ventilation
  - Part G – Hygiene
  - Part H - Drainage and Waste Water Disposal
  - Part J - Heat Producing Appliances
  - Part K - Stairways, Ladders, Ramps and Guards

<sup>23</sup> The person so assigned by the Employer to certify compliance with the relevant requirements under Building Control Regulations.

- Part L - Conservation of Fuel and Energy
- Part M - Access and Use

3.2.3 The contractor may be required to undertake the role of 'Builder' as defined in the Building Control (Amendment) Regulations 2014. In such cases the successful contractor will be required to comply with the following requirements as laid down by the regulations:

- Comply with the Inspection Plan<sup>24</sup> and agreed Inspection Notification Framework<sup>25</sup> and any reasonable amendment during the works;
- Give notice for any inspection as set out in the inspection notification framework;
- Complete works in accordance with the documents lodged with the Commencement Notice<sup>26</sup> and with all other documents and instructions issued by the design team and Assigned Certifier;
- Ensure that the workmanship and materials and all design by the contractor or his suppliers comply with the Building Regulations;
- Provide the Assigned Certifier (either directly or via the architect as directed) with such documents as reasonably may be required by them such as:
  - Ancillary certificates<sup>27</sup> of compliance (design and completion) by sub- contractors, Specialists.
  - Test Certificates
  - Technical documents/ product manuals.
- Provide a full set of records at the completion of the job, including safety file and as-built drawings;
- Provide all such information, as noted above, to the 'Builder' in a timely manner to allow the 'Builder' to submit the Certificate of Completion and all other related documentation to the Building Control Authority in order that the works can be entered on the Register without undue delay to the completion date. The building cannot be occupied or used until so registered;
- Comply with procedures set out in the Building Control Regulations for demonstrating compliance in respect of an individual building or works.

3.2.4 The contractor shall, on request, provide to the client, at the time of Substantial Completion<sup>28</sup>, a certificate confirming that the completed works comply with the requirements of legislation and the project agreement.

### **3.3 MINIMUM STANDARDS**

3.3.1 Tenderers must ensure:

- that all information, documentation and declarations submitted with, and at any stage of, their Application or in a response to an sRFT are correct and;
- that they are in position to provide the requisite evidence of compliance with the declarations submitted within seven calendar days when requested by the LGOPC and/or Contracting Authority at any stage during the Framework Agreement.

3.3.2 Without prejudice to such other legal remedies available to the LGOPC or Contracting Authority where a Tenderer/ Contractor:

<sup>24</sup> means the document prepared by the Assigned Certifier in accordance with the Code of Practice for Inspecting and Certifying Buildings and Works having regard to the works requirements. The Inspection Plan also includes the Inspection Notification Framework, both of which may be amended by the Assigned Certifier from time to time.

<sup>25</sup> means the document prepared by the Assigned Certifier and agreed with the Contractor and the Employer in accordance with the Code of Practice for Inspecting and Certifying Buildings and Works identifying key stages or items of work that individual certifiers and the Assigned Certifier are to be notified by the Contractor as the Works are ready for inspection.

<sup>26</sup> means to give notice to Building Control Authorities of the erection of such buildings, or classes of buildings, or the carrying out of such works, or classes of works, as may be specified in the regulations.

<sup>27</sup> means a certificate as prescribed by the Building Control Regulations, other than a statutory certificate of compliance, given by a competent person to confirm compliance of elements of the building, design or Works with Building Regulations; and "Ancillary Certifier" means the person proposed to issue such a certificate.

<sup>28</sup> means the date identified as the Date for Substantial Completion of the Works.

- is found to have furnished false, misleading or incorrect information, documentation or declarations at any stage of, their Application or response to sRFT or;
- is, for whatever reason, unable or unwilling to provide the requisite evidence of compliance with the declarations submitted when requested by the LGOPC or Contracting Authority;

the LGOPC and/or Contracting Authority may impose such sanctions on the Contractor/Tenderer as it deems appropriate up to and including immediate exclusion of the tenderer from the Framework Agreement.

- 3.3.3 Contractors Personnel must have an appropriate qualification and adequate relevant experience as defined in the Tender Documents.
- 3.3.4 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 Contractors Personnel and Specialists are competent, possessing sufficient training, experience and knowledge appropriate to the nature of the work that has been performed and having regard to the size and complexity of such works and/or services.
- 3.3.5 Depending on the nature of the works and/or services, the Contracting Authority reserve the right to seek proof of additional qualifications/training that are either statutory or deemed necessary for undertaking the works and/or services. See sRFT Evaluation Criteria set out hereunder.
- 3.3.6 The following are details of some of the site-specific checks and associated substantiation that may be requested by the Contracting Authority prior to award at sRFT stage:
- 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 with their Application, or information submitted in lieu of these declarations;
  - Confirmation and associated evidence of up to date membership of relevant trade associations;
  - Confirmation and associated evidence of, up to date accredited training for the individual employee/s or third party fulfilling the role of PSCS;
  - A copy of the current company training register indicating the full list of training undertaken by each employee, including information on dates, certification of training and training provider, duration etc.;
  - Details of third parties employed in the completion of works and/or services projects, e.g. external testing houses, environmental monitoring contractors, independent analysts, etc.;
  - The Contractor's Waste Management Plan (WMP) for the management of all waste arising on site. Where relevant, this WMP may need to be approved by or agreed with the relevant Contracting Authority prior to appointment.
- 3.3.7 The Contractor shall respond to any request from the CPB and / or Contracting Authority for evidence in respect of minimum standards within seven calendar days. Failure to respond within seven days may result in exclusion from the sRFT.

## **3.4 GREEN PROCUREMENT**

- 3.4.1 A component of Green Procurement to minimise the environmental impact of works and/or services may be specified by the Contracting Authority.
- 3.4.2 A Green Procurement Component may comprise one or a combination of the following elements, as applicable to Minor Building works or services;
- Design and construction to achieve high energy efficiency performance and low associated CO<sup>2</sup> emissions;
  - Installation of high efficiency and renewable energy technologies which make use of site-specific opportunities to reduce energy consumption and CO<sup>2</sup> emissions;
  - Design and specification to reduce the embodied impacts and resource use associated with construction materials;

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- Design, specification and site management to minimise construction and demolition (C&D) waste and to use building products or materials with a high recycled or re-used content;
  - Specification of fit-out and finishes that minimise hazardous emissions to indoor air;
  - Ventilation design to ensure healthy air and minimise the intake of external air pollution;
  - Specification and installation of water saving technologies;
  - Installation of physical and electronic systems and technologies to support the ongoing minimisation of energy use, water use and waste arisings by facilities managers and occupiers.

### **3.5 CONTRACT PERFORMANCE EVALUATION**

- 3.5.1 It is intended that Contractor performance will be monitored during the Framework Agreement term and specifically during the execution of all sRFT Contracts.
- 3.5.2 A Performance Evaluation Report (hereunder) may be completed by the Contracting Authority at the end or at any time during the sRFT Contract, that will record the performance of the Contractor on the sRFT Contract. Such reports will be copied to the Contractor and the content of such reports may be considered when formulating new award criteria for future centralised procurement competitions advertised by the Contracting Authority. A copy of the Performance Evaluation Report may be included in the sRFT Template.
- 3.5.3 Where any Contractor fails to satisfactorily perform a sRFT, the sRFT may be terminated and the Contracting Authority shall have the right to re-tender the contract.

### **3.6 PERFORMANCE MEASUREMENT**

- 3.6.1 The Contracting Authority may review the Contractor's performance from time to time during the Framework term or the duration of a sRFT and may assess the Contractor's performance by reference to the Performance Measurement Table in Section 3.4 of the Framework Agreement. The purpose of this exercise is to ensure that the works and/or services continue to be executed and the Contractor continues to meet its obligations in accordance with the requirements of the Framework Agreement. This is a separate and distinct exercise from the completion of a Performance Evaluation Report by the Contracting Authority. The performance measurement shall be carried out in accordance with the terms of the Framework Agreement.

## 4.0 SUPPLEMENTARY REQUEST FOR TENDER (SRFT) ON SUPPLYGOV.IE

### 4.1 GENERAL

- 4.1.1 Supplementary Requests for Tender (SRFT) contracts awarded under this Framework Agreement will be awarded by way of Mini-Competition<sup>29</sup> only.
- 4.1.2 The Contracting Authority will issue SRFTs electronically via the [www.supplygov.ie](http://www.supplygov.ie) procurement platform to all Contractors appointed to the Framework Agreement that have expressed an interest in receiving SRFTs from the Contracting Authority.
- 4.1.3 Contractors must submit all SRFT responses electronically via the [www.supplygov.ie](http://www.supplygov.ie) system only.
- 4.1.4 Responses will not be accepted in any other format.
- 4.1.5 Contractors listed on the Framework Agreement may only submit one (1) tender response to a SRFT.

### 4.2 REQUEST FOR TENDER TEMPLATE

- 4.2.1 A standard SRFT template may be issued by the Contracting Authority with each SRFT.
- 4.2.2 The SRFT will include details in relation to the works and/or service requirements and all procedures, processes, time limits, instructions or other requirements as issued by the Contracting Authority in relation to the SRFT.

### 4.3 REQUEST FOR TENDER CONTRACT EVALUATION CRITERIA

- 4.3.1 SRFT contract evaluation criteria will be assessed on a Pass/Fail basis and will be made up of all or a subset of the criteria listed in the relevant tables hereunder.
- 4.3.2 Contractors shall note that not all of the criteria (including the sub-criteria) listed may apply to every SRFT.

SUPPLEMENTARY REQUEST FOR TENDER CONTRACT EVALUATION CRITERIA		WEIGHTING
<b>1</b>	<b>Details of Contractors Personnel</b> Provide the following details for the Contractors Personnel -: <b>a)</b> Details of the Contractors Personnel assigned to perform the contract in the form of a management chart of the Project Team, and their roles and responsibilities. <b>b)</b> Where Subcontractors/Specialists are proposed for completion of works, the Contractor shall indicate to the Contracting Authority the name, contact details and legal representatives of the subcontractors/ /Specialists. <b>c)</b> The following minimum details for each member of the Project Team: <b>(i)</b> Evidence of educational and professional qualifications and/or technical accreditations (with dates obtained) <b>(ii)</b> Employment history with specific reference to experience of the Works Contractor's personnel on works projects of a similar scale, nature and complexity to those to be tendered under this Framework <b>or</b> experience as far as they are relevant to health and safety management of works projects.	<b>Pass/Fail</b>

<sup>29</sup> means a tender competition between the Contractors for the award of a contract, undertaken in accordance with the procedure set out in the Instructions Document and the Terms & Conditions.

	<p><b>(iii)</b> Details of a minimum of three (3) projects in last three (3) years shall be provided for each member.</p> <p><b>d)</b> Provide evidence of attendance by one (1) member of the Project Team at specific Health &amp; Safety training provided by an independent training provider e.g. Managing Safely in Construction (CIF/IOSH), or equivalent;</p> <p><b>Or</b></p> <p>Evidence of current third-party certification e.g. Safe-T-Cert, or OHSAS 18001, or approved equivalent to substantiate declaration made at Framework Application stage.</p> <p><i>Note: Safe Pass courses, site induction courses and Health and Safety training such as Manual Handling are not acceptable as CPD in the context of specific management health and safety training.</i></p> <p>Requirements for Contractors Personnel shall be proportionate to the needs of the contract depending on the scale, nature and complexity of the works.</p> <p>Specific additional details may be required for site staff responsible for managing the works.</p>	
<b>2</b>	<p><b>Project Supervisor for the Construction Stage (PSCS) Competence</b></p> <p>Complete and submit the Project Supervisor for the Construction Stage (PSCS) Questionnaire included with the sRFT to provide evidence to substantiate PSCS competence.</p>	<b>Pass/Fail</b>

4.3.3 Contractors that pass the Pass/Fail criteria will proceed for further assessment in accordance with the award criteria set out below.

#### **4.4 SUPPLEMENTARY REQUEST FOR TENDER - CONTRACT AWARD CRITERIA**

4.4.1 Contracting Authorities shall, where appropriate, note the provisions of the Framework Rules regarding the ceiling rates tendered at Framework application stage prior to award of contract.

4.4.2 The Contractor that achieves the highest-ranking score by reference to the criteria below will be ranked as the preferred contractor in the relevant Mini-Competition.

<b>CRITERIA</b>	<b>WEIGHTING</b>	<b>MAXIMUM MARKS AVAILABLE</b>
Most Economically Advantageous Tender: <b>Total Cost</b> <sup>30</sup>	100%	1,000

4.4.3 Total Cost component(s) may be specified by the Contracting Authority at sRFT stage.

4.4.4 Total Cost may comprise one or more of the following:

- A Schedule of Rates;
- Elements of Green Procurement;
- Minimum Call out Charges;
- Preliminaries;
- Quality Assurance Testing;
- Accessibility.

4.4.5 The lowest Total Cost tendered for completion of the project will be awarded 100% of the 1,000 marks available.

<sup>30</sup> Total Cost may be either 'Lowest Price' or 'MEAT Lowest Price'.

4.4.6 The remaining Contractors for that sRFT will receive a pro rata mark based on the difference between their tendered price and that of the lowest priced tenderer, expressed as a percentage of the lowest cost, i.e.

$$\text{Marks Awarded} = \frac{\text{Lowest Total Cost}}{\text{Total Cost being evaluated}} \times \text{Available Marks for Total Cost (1,000)}$$

4.4.7 The marks awarded above will determine the highest scoring contractor who will be ranked No. 1 for the sRFT. The remaining contractors will be ranked in descending order, i.e. The next highest mark ranked No. 2, etc.

4.4.8 The acknowledgement of receipt of any sRFT shall not constitute an actual or implied agreement between the Contractor and the Contracting Authority.

4.4.9 Where, after a sRFT, two or more Contractors are level on marks the Contracting Authority reserves the right to either;

- award the contract by random selection concluded in an open and transparent forum, or
- re-tender the works and/or services.

4.4.10 Where, after a sRFT and before the award of contract, the preferred Tenderer is:

- deemed by the Contracting Authority as being unable or unsuitable to provide the required works and/or services due to a change in circumstances; or
- not able or is unwilling to provide the required works and/or services

then the Contracting Authority reserves the right to award the contract to the tenderer ranked next highest. The Contracting Authority may repeat this process until a contract is awarded or there are no further tenderers to provide the required works and/or services.

4.4.11 The Contracting Authority may, as an alternative to an award of an sRFT contract directly to the preferred Contractor in a Mini-Competition, operate the call-off of required works and/or services in cascade. In the event that the Contracting Authority decides to operate in this manner, it will explicitly identify this in the sRFT. Once the Mini-Competition has been completed, it will enter an sRFT contract with the preferred tenderer and as many subsequently ranked tenderers (in descending order) as specified in the sRFT in the relevant Mini-Competition. The Contracting Authority will then order works and/or services in the following manner:

- It will issue a Task Order to the Contractor who is ranked first in the cascade;
- Within the minimum number of working days specified in the Task Order, the Contractor must either:
  1. Accept the Task Order; or
  2. Advise why it cannot accept the Task Order.

If the Contractor does not accept the Task Order or fails to observe the deadline or if it is in a situation of conflicting interests that may negatively affect the performance of the specific contract, the Contracting Authority may place the order with the next ranked Contractor on the cascade.

The Contracting Authority may repeat this process until a Contractor accepts the Task Order or there are no further Contractors to provide the required works and/or services.

#### **4.5 SUPPLEMENTARY REQUEST FOR TENDER - NOTIFICATION OF EVALUATION**

4.5.1 All Contractors submitting a tender in response to a sRFT will be informed of the outcome without delay following conclusion of the sRFT evaluation process.

#### **4.6 INFORMATION TO BE PROVIDED BY THE CONTRACTOR PRIOR TO CONTRACT AWARD**



4.6.1 In addition to the information to be provided when submitting a response to a sRFT, successful Contractors must provide to the Contracting Authority for their review and approval, prior to formal award of the contract (if not already submitted), the specific information listed below or any such relevant information as requested by the Contracting Authority:

- Confirmation that any Subcontractor/Specialist proposed for completion of the works and/or services complies with the requirements of Regulation 57 of the European Union (Award of Public Authority Contracts) Regulations 2016 (SI 284 of 2016) by providing an ESPD or equivalent;
- The company's Tax Clearance Access Number and Tax Reference Number to facilitate online verification of the company's tax status. By supplying the aforementioned numbers, the successful Contractor acknowledges and agrees that the contracting authority has the permission of the successful Contractor to verify its tax clearance position online. Subcontractors engaged at sRFT stage are required to produce an in-date (not older than 30 days) Notification of Determination to the Contracting Authority or the principal Contractor, before any contract is awarded;
- The company's Safety Statement or equivalent document submitted prior to appointment to the Framework Agreement. This document may be assessed for compliance with the provisions set out in the Safety, Health & Welfare at Work Act 2005 and enforcing Regulations;
- Satisfactory evidence of insurance in accordance with the minimum standards referenced in the tender documents or as outlined in the SRFT;
- Agreement to the use of specific electronic tools, such as building information electronic modelling tools or similar, where appropriate;
- In relation to the appointment as PSCS the Contractor agrees prior to the award of the sRFT contract, at a minimum to the following:
  - Be appointed in writing as PSCS for the works;
  - Confirm acceptance of the PSCS role in writing;
  - Where required, to further develop the Preliminary Safety & Health Plan into a Construction Stage Safety & Health Plan;
  - Comply with obligations regarding notifying the Health & Safety Authority;
  - Confirm identity of the competent person(s) carrying out the duties of PSCS;
  - Carry out all duties required of the PSCS as outlined in the Safety, Health & Welfare at Work (Construction) Regulations 2006 – 2013.
- In relation to Pay and the Conditions of Employment, satisfactory evidence of compliance with applicable law, may be sought in relation to rates of pay and the conditions of employment, including pension contributions;
- SOLAS Safepass Cards for all Contractors Personnel and where appropriate to the works and/or services required in the Supplementary Request for Tender, CSCS cards or equivalent;
- Site<sup>31</sup> Specific Risk Assessment, if applicable;
- Site Specific Method Statement, if applicable;
- The Contractor's Waste Management Plan (WMP) for the management of all waste arising on site, if applicable;
- Parent Company Guarantee (if applicable);
- Any other details specified in the sRFT consistent with the terms and conditions of the Framework Agreement.

#### **4.7 SUPPLEMENTARY REQUEST FOR TENDER CONTRACT**

<sup>31</sup> Any place where the works are to be executed according to the contract, any place provided by the Employer for the works, any place where the Contractor is to operate or maintain Employers facilities or any place that the works requirements identify as part of the site.

<sup>31</sup> Task Orders are written orders given to the Contractor under clause 3.1 of the Public Works Term Maintenance and Refurbishment Works Contract Document Reference PW-CF11 v1.4 24 May 2018.

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- 4.7.1 All works and/or services subsequently carried out by Contractors pursuant to a sRFT will be carried out under:
- PW-CF 11 Term Maintenance and Refurbishment contract, as may be amended –re-stated or otherwise modified by OGP from time to time
- 4.7.2 The version of the conditions of contract for the purpose of any particular sRFT shall be the version identified in the sRFT or, failing which, the version published on <http://constructionprocurement.gov.ie/contracts/> on the date 10 days before the latest receipt for a response to the sRFT.
- 4.7.3 Tenderers should note that this Framework Agreement replaces the template TMRC Framework Agreement and its associated drawdown options under the Capital Works Management Framework.
- 4.7.4 Under the Framework Agreement, individual Contracting Authorities utilising PW-CF 11 Term Maintenance and Refurbishment Contract shall comply with the limits specified in the Department of Public Expenditure and Reform's Guidance Note to Employer (PW-CF11) v1.1 12/12/2013 as may be amended, re-stated or otherwise modified by OGP from time to time.

## 5.0 PERFORMANCE EVALUATION REPORT

### MINOR BUILDING WORKS – RESIDENTIAL – PUBLIC SERVICE BODIES PERFORMANCE EVALUATION REPORT

#### DETAILS OF SUPPLEMENTARY REQUEST FOR TENDER (SRFT)

CONTRACTING AUTHORITY		
SRFT ORDER REFERENCE No.:		
NAME OF CONTRACTOR:		
SUPPLYGOV I.D. OF CONTRACTOR		
CONTRACTOR CONTACT NAME		
DETAILS OF CONTRACT AWARDED:		
TOTAL OUT-TURN COST:	€	(INCLUDING VAT)
COMMENTS:		

#### EVALUATION COMPLETED BY -

(BUYER) NAME:	
(BUYER) CONTACT NO:	
(BUYER) EMAIL ADDRESS:	
DATE OF REVIEW:	
SIGNATURE (BUYER):	

# CONTRACTOR PERFORMANCE EVALUATION

<b>RATING</b>	<b>EXCELLENT</b>	<b>VERY GOOD</b>	<b>GOOD</b>	<b>MODERATE</b>	<b>POOR</b>
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PLEASE GIVE ONE RATING FOR EACH CRITERION. ADD COMMENTS AS REQUIRED TO JUSTIFY YOUR RATING.

	<b>EVALUATION CRITERIA</b>	<b>RATING</b>
<b>1</b>	<p><b>ADHERENCE TO THE SPECIFIED PROJECT PROGRAMME</b></p> <p><i>Did the Contractor complete the works and/or services within the specified timeframe? Did the Contractor successfully manage the Project regarding Programme? Were any difficulties or delays encountered? Were these difficulties or delays within the control of the Contractor or his Project Team?</i></p> <p><b>Comments:</b></p> <p> </p> <p> </p> <p> </p>	
<b>2</b>	<p><b>QUALITY OF WORKMANSHIP</b></p> <p><i>Was the required work completed in a good workmanlike manner? Did the Project Team demonstrate a desire to complete the work to a high quality? Did the Contractor successfully manage the Project regarding Quality, Subcontractors/Specialists etc? Did the Contracting Authority have to issue any requests for corrective action(s)?</i></p> <p><b>Comments:</b></p> <p> </p> <p> </p> <p> </p>	
<b>3</b>	<p><b>CONTRACTOR RESPONSIVENESS</b></p> <p><i>Could the Contracting Authority communicate easily (in a professional and timely manner) with the Contractor? Were all issues arising addressed in a professional and timely manner by the Contractor?</i></p> <p><b>Comments:</b></p> <p> </p> <p> </p> <p> </p>	
<b>4</b>	<p><b>COMPLIANCE WITH THE REQUIREMENTS OF HEALTH &amp; SAFETY LEGISLATION</b></p> <p><i>Did the Contractor comply with relevant Safety, Health &amp; Welfare legislation (e.g. the Construction Regulations 2013)? Did the Contractor's Personnel demonstrate awareness of risks associated with the works and/or services? Did the Contractor's site activities create any Health &amp; Safety risks? Were any Health &amp; Safety difficulties or non-compliance issues encountered?</i></p> <p><b>Comments:</b></p> <p> </p> <p> </p> <p> </p>	
<b>5</b>	<p><b>PROJECT SUPERVISORS</b></p> <p><i>Did the Project Supervisor Construction Stage (PSCS) carry out his/her duties in a professional manner? Did the Contractor (or their nominated representative) discharge the role of PSCS diligently and effectively – while fulfilling all statutory obligations? Was the developed Construction Stage Safety &amp; Health Plan appropriate for the project? Did the PSCS coordinate the implementation of the General Principles of Prevention during construction?</i></p> <p><b>Comments:</b></p> <p> </p> <p> </p> <p> </p>	
<b>OVERALL RATING</b>		