



Trinity College Dublin
Coláiste na Tríonóide, Baile Átha Cliath
The University of Dublin

Framework Agreement and Rules

Issued with Request for Tender for:

**Single Supplier Framework Agreement for Swimming Pool and Plant
Maintenance Services**

to

Trinity College Dublin, the University of Dublin

TCD-26-C2358



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THIS FRAMEWORK AGREEMENT is made on [date]

BETWEEN

The Employer:

Principal office of Employer:

AND

The Service Provider:

*Principal office
of Service Provider:*

This framework agreement is formed by the Employer's written notification to the Service Provider of his/her inclusion on the list of Participants in the Framework and is made on the date of that notification.

Whereas

- A. The Employer requires a Single-Supplier Framework for Swimming Pool and Plant Maintenance Services as set out in the tender documents, funded by the Contracting Authority and have decided to procure these services under a single-operator framework agreement;
- B. The Contracting Authority has published a notice in the Official Journal of the European Union seeking tenders for the provision of those services; and
- C. After considering tenders received, the Contracting Authority has selected the Service Provider to be a party to this single operator framework agreement (this **"Agreement"** which, for the avoidance of doubt, includes the Framework Rules and the Schedules) together with a number of other Service Providers (each a **"Participant"**).

THE EMPLOYER AND THE SERVICE PROVIDER AGREE as follows:

1. Framework

- 1.1 The Service Provider and other Participants are part of a framework for the provision of a Framework Agreement for Swimming Pool and Plant Maintenance Services for the Employer.
- 1.2 If, during the Framework Period defined in the attached Framework Rules, the Employer needs services as described in the Framework Rules, the Employer may procure the work by awarding contracts (Services 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. 'Call-Off' Contracts

- 2.1 If the Service Provider is selected for any work according to the attached Framework Rules, the Employer and Service Provider agree to enter a 'Call-Off' Contract in the terms established under this agreement.
- 2.2 'Call-Off' Contracts will be on the following terms:
 - The **Standard Services Contract** where full or partial services are required for Swimming Pool and Plant Maintenance Services, OR
 - TCD Purchase Orders for tasks and/or services below €10,000.

- 2.3 'Call-Off' Contracts awarded within the Framework Period may be for work that continues after that period.
- 2.4 The award of any Call-Off Contract shall be subject to the Service Provider satisfying the following conditions precedent:
- Confirmation that the insurances required under the Services Contract for that Call-Off Contract are in place.
 - Provision of evidence satisfactory to the Employer that the Service Provider holds a Tax Clearance Certificate or C2 Certificate in accordance with Clause 4 of this Agreement.
 - Letter of Undertaking from Parent Company or Supporting Company regarding availability of their resources to the Tenderer (if relevant) on supporting entity's letterhead and duly signed.
 - Where the preferred tenderer comprises a consortium, confirmation that there has been no material change in the membership of that consortium.
 - Collateral Warranty for Sub-Consultants, if relevant, duly completed and signed;
 - Health and Safety Compliance Declaration by All General Services Providers completed and signed.
 - Evidence of compliance with any other legal requirements as may be required.

3 Communications

- 3.1 The Service Providers' contact person and e-mail address for communications with the Employer in relation to this agreement and 'Call-Off' Contracts is as stated in the tenderer's Tender submission for inclusion on the Framework.

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

- 3.2 The Employer's contact person for communications with the Service Provider in relation to this agreement is as stated in the Tender documents for the Framework. The Employer may change these details by notice [including e-mail] to the Service Provider.

4. Tax Clearance Certificate

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

5. Performance Measurement

- 5.1 The Employer will review, on a continuous basis, the Service Providers' performance according to the attached Framework Rules, the Services Contract and the agreed Service Level Agreement as established and agreed between the Service Provider and the Employer at contract initiation and at the start of each new contract. The Service Provider must support the Employer in establishing these KPIs and must provide any information required by the Employer to facilitate this process.

6. Confidentiality

- 6.1 The Service Provider must not disclose to anyone:

- official information as defined in the Official Secrets Act 1963 or
- other information that the Employer notifies the Service Provider is confidential

except as necessary to perform the Service Provider obligations under this agreement or a 'Call-Off' Contract or to comply with the law.

6.2 The Service Providers' 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 Service Provider:

- if a 'Call-Off' Contract with the Service Provider is terminated or
- according to the attached Framework Rules or
- if the Service Provider breaks this agreement or
- if any statement made by the Service Provider in connection with the procedure by which this agreement was awarded to the Service Provider was untrue when made or subsequently ceases to be true or
- without cause, if the Employer also terminates its agreements with the other Participants in the Framework or
- where there has been any material adverse change to the information provided by the Service Provider prior to appointment to this Agreement.

7.2 Termination of this agreement does not affect any 'Call-Off' Contract already entered.

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

8. Limitation on liability

Neither the Service Provider 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 'Call-Off' Contract.

9. This Agreement

9.1 Neither party may assign rights under this agreement.

9.2 This, and any 'Call-Off' Contracts, is the entire agreement between the Employer and the Service Provider about its subject matter. Neither the Employer nor the Service Provider 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 Service Provider.

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

FRAMEWORK RULES

1. The Framework

- 1.1 The **Employer**, as defined in at paragraph 1 of the Agreement, has established a single operator framework for the provision of a Framework Agreement for Swimming Pool and Plant Maintenance Services as specified in the Tender documents and the Employer's written notification to the Service Provider of his/her inclusion on the list of Participants in the Framework.

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

- 1.2 If, during the period starting on the date of formation of this agreement and ending on the date of expiration of this agreement [being the date of formation of the agreement plus the duration in days], (the **Framework Period**), the Employer needs services as described in rule 1.1 above, the Employer may procure it by awarding '**Call-Off**' **Contracts** according to these rules. The Employer may also procure the services in other ways and does not guarantee that any services will be procured under these rules.
- 1.3 The Framework Period will be for an initial term of 1 year with an option to extend it for 3 further periods of 1 year to give a maximum framework period of four years.
- 1.4 Trinity College Dublin intends to enter in a services contract with the highest scoring Participant for the Provision for the Swimming Pool and Plant Maintenance Services in the capacity that they will be the single provider of Swimming Pool and Plant Maintenance Services over the lifetime of the framework. In any circumstance where the Trinity College Dublin terminates the contract with the highest ranked Participant, the Trinity College Dublin will look to enter contract with the second highest ranked Participant and so on.

Minor Remedial Works

This tender relates to a maintenance contract for the servicing and upkeep of the specified equipment and plant. The Contract shall include the execution of repairs and remedial works identified during routine maintenance activities, up to a value set out in the framework rules

Where the value of any required remedial works exceeds this threshold, such works shall be treated as additional works and will be subject to separate approval in accordance with the Contract provisions.

2. Participants

- 2.1 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 The Framework is being established to procure a Framework Agreement for Swimming Pool and Plant Maintenance Services.
- 3.2 **Material Change to Tender:** As part of the invitation to submit a tender for a 'Call-Off' contract or at any stage during the Framework Period, the Employer may require the Participant to confirm that there has been no material change to their tenders as submitted for appointment to this Framework Agreement (for example, no change to the key personnel). To the extent there has been any such change, such changes are subject to the approval of the Employer, acting in its sole discretion. To the extent that the Employer considers there has been a material adverse change, the Employer reserves the right not to invite the relevant Participant to participate in the tender for the relevant 'Call-Off' contract or to terminate their participation in the Framework.

- 3.3 **Invitation to Tender:** The invitation will be sent to the short-listed Participant via their primary contact details as provided by the Participant.

The invitation will include [or refer to] the relevant particulars and include details of the required Services.

The invitation will fix a time limit for the Participant to send in tenders taking account of such factors as the complexity of the subject-matter of the 'Call-Off' Contract and the time needed to send in tenders.

- 3.4 The award process for Services Contracts tendered under this rule 3 will be conducted in accordance with these rules and any procedures stated in the invitation to tender.

- 3.5 Participants wishing to be considered for a Services 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 or subject to the approval of TCD, other suitably and matching qualified and experienced personnel.

- 3.6 **The award criteria for 'Call-Off' Contracts will be as follows:**

- A. Where the Employer can define the scope of the service required and estimates the fee level of the call-off to be less than 50,000 (ex. VAT):

1. Resources & Capacity: – [criteria weighting may range between 0-80%].
2. Project Assessment, Methodology & Quality Assurance – [criteria weighting may range between 0-80%].
3. Price – [criteria weighting may range between 20-100%].

- B. Where the Employer can define the scope of the service required and estimates the fee level of the call-off to be greater than 50,000 (ex. VAT):

1. Resources & Capacity: – [criteria weighting may range between 0-80%].
2. Project Assessment, Methodology & Quality Assurance – [criteria weighting may range between 0-80%].
3. Price – [criteria weighting may range between 20-100%].

- C. Where the Employer cannot define the scope of service required and wishes to procure services at the tendered framework time rates: The Employer may select a framework participant by assessing the factors above to shortlist the participant(s) capable of performing the required service/task AND

1. Selecting the participant who tendered the lowest cost for the requested notional hours in the Framework's Pricing Schedule: OR
2. By Rotation: OR
3. By Random Selection: OR
4. Selecting the participant who is best suited to provide the particular task
 - i. Request an estimate of resource hours required for the Task
 - ii. Apply the Participant's tendered rates.

The indicative award criteria listed in paragraphs A, B & C above are not in order of importance. The Employer may attach different weightings to them for different Services Contracts, depending on the service requirement, and will indicate the weightings in the invitation to tender for the relevant contract.

4. Performance Review, Termination and Promotion

- 4.1 The Employer will review, on a continuous basis, the Service Provider's performance according to the Key Performance Indicators (KPIs) as established and agreed between the Service Provider and the Employer at project initiation and at the start of each project stage. The Service Provider must support the Employer in establishing these KPIs and must provide any information required by the Employer to facilitate this process. Project / Stage KPIs may include:
1. Agreed management and personnel resources to be provided.
 2. Dates to produce key studies, reports or other documents.
 3. Agreed scope and quality of studies, reports or other documents.
 4. Accuracy of Cost Information.
 5. Attendance at Client and DT meeting.
 6. Timely Issue of regular progress reports
 7. Any other issue considered relevant to the project in hand.
- 4.2 If the Employer establishes at the End of Stage review between the Participant and the Employer that the Participant has failed to achieve the pre-agreed and planned stage KPIs, the Employer may issue a Warning Notice and suspend the Participant from further call-off competitions pending the Participant reaching agreement with the Employer that he/she has adequately addressed the deficiencies leading to the KPI failures.
- 4.3 If a Participant receives two Warning Notices during the Framework Period the Employer may terminate that Participant's Framework Agreement.
- 4.5 The Employer may use the information collated for the above performance measurement (or any other information lawfully accessible to the Employer) to carry out a performance assessment of the Service Provider for future reference.