

Framework Agreement

for

Construction Work

Department of Finance

Public Works Framework Agreement
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Government Buildings
Upper Merrion Street
Dublin 2.

Agreement

THIS FRAMEWORK AGREEMENT is made on BETWEEN

The Employer: Dublin City Council

Principal office of Employer: Civic Offices, Wood Quay, Dublin 8, D08 RF3F

AND

The Contractor:

Registered office of Contractor:

THE EMPLOYER AND THE CONTRACTOR AGREE as follows:

1. **Framework**

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

2. **Works Contracts**

- 2.1 If the Contractor is selected for any work according to the attached Framework Rules, the Employer and Contractor agree to enter a Works Contract in the terms established under this agreement.
- 2.2 Works Contracts will be on the terms of the *PW-CF2-Public Works Contract for Build Works Designed by the Contractor or PW-CF1 - Building Works designed by the Employer* as completed by the Employer and the Contractor according to the attached Framework Rules.
- 2.3 Works Contracts awarded within the Framework Period may be for work that continues after that period.

3. **Communications**

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

Name of Contractor's contact person

Address

Telephone

Mobile phone

Fax

eMail

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

the Contractor, and notify the Employer of the new contact person.

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

<i>Name of Employer's contact person</i>	Aongus Bates		
<i>Address</i>	Dublin City Council Civic Offices, Wood Quay, Dublin 8		
<i>Telephone</i>	01 2222222	<i>Mobile phone</i>	n/a
<i>Fax</i>	n/a	<i>eMail</i>	housingframework@dublincity.ie

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

4. Tax Clearance Certificate

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

5. Performance Measurement

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

6. Confidentiality

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

7. Termination

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

8. **Limitation on liability**

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

9. **This Agreement**

- 9.1 Neither party may assign rights under this agreement.
- 9.2 This, and any Works Contracts, are the entire agreement between the Employer and the Contractor about its subject matter. Neither the Employer nor the Contractor has relied on any agreement, understanding, or statement that is not written or referred to in this agreement.
- 9.3 This agreement can only be changed in writing, signed by authorised representatives of the Employer and the Contractor.
- 9.4 This agreement is governed and to be construed according to Irish law.

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

Signed on behalf of the Employer:

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

Signed on behalf of the Contractor:

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

Framework Rules

1. The Framework

1.1 *The Employer* Dublin City Council

has established a framework for the procurement of construction work in relation to

DCC Home Building Programme Contractor Multi Party Framework Agreement in 2 Lots A & B

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

1.2 If, during the period
starting on

and ending on

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

2. Participants

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

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

3. Call off by competition

- 3.1 When the Employer decides to procure work under these rules, the Employer will send each Participant a written invitation to tender. The invitation will be sent by email to each Participant's current email address as given in or notified under its Framework Agreement. The invitation will include a draft Works Contract, based on the *PW-CF2-Public Works Contract for Build Works Designed by the Contractor* with the Schedule completed by the Employer in its discretion, including details of the required Works. The invitation will fix a time limit for Participants to send in tenders taking account of such factors as the complexity of the subject-matter of the Works Contract and the time needed to send in tenders.
- 3.2 The award process for Works Contracts tendered under this rule 3 will be conducted in accordance with these rules and any procedures stated in the invitation to tender. It may include an electronic auction.
- 3.3 Participants wishing to be considered for a Works Contract must submit a tender complying with the invitation to tender. Tenders must propose resources (including key persons) that are consistent with the Participant's tender proposal for its Framework Agreement.
- 3.4 The award criteria for Works Contracts awarded under a procedure initiated under this Rule 3 will be as follows (with the range of weighting given in brackets):

While additional contracts under the framework are not guaranteed, any subsequent projects will be awarded via mini-competitions, assessed on cost and quality.

Form of public works contract to be used with initial contract is PW-CF2.

Please note that the Contracting Authority reserve the right to use any of the following contracts for subsequence contracts that may be awarded: PW-CF1 or PW-CF2. Details of the contract will be provided at mini competition stage.

Quality / Technical 50-60%

1. Technical: Proposed Detailed Methodology and Construction Programme
2. Technical: Proposed Management Structure and Approach including key personnel
3. Technical: Proposed Design Quality
4. Technical: Proposed Construction Quality, Health and Safety
5. Technical: Proposed Green Public Procurement and Social Considerations

Financial 40-50%

To reflect the requirements of the particular Call-Off Contract to be awarded, each Supplementary Request for Tender will set out the precise award criteria, scope and weightings applicable to the award of the Call-Off Contract in question.

Following evaluation of all valid Supplementary Tenders received against the award criteria set out in the Supplementary Request for Tender, the Contracting Authority may enter into the Call-Off Contract with the successful Framework Member.

The following rules also apply:

- The replacement or change of a team member by a D&B Contractor will be subject to the approval of the Contracting Authority. The Contracting Authority will consider any such replacement on a case by case basis.
- Participants will be required to provide the then latest available financial documents listed in 3.3d of the SAQ at any time during the term of this Framework Agreement and the award of a

Call Off Contract is subject to the financial robustness evaluation set out in 3.3d of the Suitability Assessment Questionnaire.

- Where a framework participant has been awarded two (2) call-off contracts under a Framework, the Contracting Authority reserves the right to exclude that framework participant from subsequent mini-competitions until such time as one (1) of the call-off contracts previously awarded to that framework participant have been certified by the Architect as having reached substantial completion.

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

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

- 4.1 On completion of each Works Contract, the Participant concerned must collate and provide to the Employer the information required for the Employer to review that Participants' performance according to the attached Performance Measurement Table. The Employer may review Participants' performance of their Works Contracts and the Framework Agreement at the end of each year of the Framework Period, according to the attached Performance Measurement Table.
- 4.2 If a Participant has reached 'Failure Level 1' for any indicator according to the attached Performance Measurement Table, the Employer may give that Participant a written Warning Notice and may exclude that Participant from further competitions until the Participant has demonstrated to the Employer's satisfaction that it has implemented steps to redress the problem.

4.3 If a Participant

- receives two Warning Notices during the Framework Period or
- has reached 'Failure Level 2' for any indicator according to the attached Performance Measurement Table

the Employer may terminate that Participant's Framework Agreement.

4.4 The Employer may give each Participant details of the result of its annual performance review, and of the average results for each item and the average overall score.

Performance Measurement Table

No	Employer's objective	Indicator	Measurement Period	Failure Level 1 (Rule 4.2)	Failure Level 2 (Rule 4.3)
1.	Programme	Contractor Delay Days to the Programme	From Letter of Acceptance to Substantial Completion Date	More than 10% of Contract Period	More than 25% on a single contract or more than 10% on 2 no contracts.
2.	Quality / Defects	Avoidance of the use of Clause 8.5 of PW-CF2, for substantive works, or failure to comply with a Clause 8.5 instruction within a reasonable time.	From Letter of Acceptance to one month after 12 month defects period	Issuance of 3no. notifications under Clause 8.5, for substantive works in a single contract	A cumulative of 5 no. defects, for substantive works, on all Contracts awarded from framework
3.	Snagging	Snagging identified at Substantial Completion is not fully complete	Within 60 calendar days of Substantial Completion	Noncompletion of snagging on 1no contract within period	Noncompletion of snagging on 1 contract within 60 days or on 2no contracts within 30 days.
4.	Health & Safety	Failure to maintain safety measures as set out in the Safety & Health Plan and/or Contractor's Safety Statement	Contract	1 incident	2 incidents
5.	As per KPIs Agreed in pre-contract meeting.				

No	Employer's objective	Indicator	Measurement Period	Failure Level 1 (Rule 4.2)	Failure Level 2 (Rule 4.3)
6.					
7.					
8.					