



Multi-Party Framework Agreement Terms and Conditions

for the Provision of:	
Multi-Party Framework Agreement for Digital for Business Consultancy Services for Fingal County Council and Dublin City Council Local Enterprise Offices. FCC156-26	
PARTIES	
Contracting Authority:	Fingal County Council and Dublin City Council Local Enterprise Offices
Framework Operator:	
Date:	
Note: This document is an indication of the form of agreement which the Contracting Authority intends to conclude with the successful economic operators arising from this competitive process. Economic Operators are not required to submit a signed copy of these terms as part of their tender but should indicate any objections which they may have to these terms in the body of their tender.	

Subject to contract / contract denied

Framework Agreement with a Framework Member in a Multi-Party Framework for Digital for Business Consultants for Fingal County Council and Dublin City Council LEO

Parties

Fingal County Council of County Hall, Main Street, Swords, Co Dublin and Dublin City Council, Civic Offices, Wood Quay, Dublin 8, D08 RF3F

(Hereinafter referred to as the 'Contracting Authority')

AND

[insert legal name of Framework Member] of [insert address of Framework Member]

(Hereinafter referred to as the "Framework Member" or "Member")

Background

The Contracting Authority has conducted a tender competition in accordance with Directive 2014/24/EU and all applicable procurement rules for the establishment of a framework agreement (within the meaning of the aforesaid directive) with multiple Framework Members.

The tender competition under the Open procedure was advertised in the Official Journal of the European Union on [insert date] with a reference number of [insert ref] with an RFT ID [insert ref] (the 'Contract Notice').

Definitions

"Call Off Contract" means any contract awarded on foot of this framework agreement;

"Call Off Request" means the request issued by the Contracting Authority to a Framework Member instructing that Framework Member, to provide the required Services;

"Commencement Date" means after [insert date];

"Competitive Procedure" means the process leading to the establishment of this Framework Agreement and/or award of a contract on foot of this Framework Agreement;

"Contract" means a contract which falls within the scope of this Framework Agreement and for which the Contracting Authority conducts a Competitive Procedure under the terms of this Agreement;

"Framework Agreement" means these terms and conditions, including any Schedules hereto;

"Framework Member" means the supplier or service provider formally appointed to the Framework Agreement on foot of a Competitive Procedure;

"Framework Period" means the period in years set out in Clause 2.2;

"Party" means the Contracting Authority and/or the Framework Members;

"Request for Tender" means the document issued by the Contracting Authority on [insert date], with the aim of establishing the framework agreement;

"Other Conditions" means for example contract Terms and Conditions, Special Terms and Conditions and/or Service Level Agreement as may be appropriate;

"Tender" means the submission by the Framework Members in response to the Request for Tender, together with any clarifications, additions or amendments accepted by the Contracting Authority.

1 Appointment of Framework Member

- 1.1 The Framework Member accepts its appointment as one of several framework Members to provide Services, if instructed to do so from time to time by the Contracting Authority, under the terms and conditions of this Framework Agreement.
- 1.2 The Members appointed to the Framework Agreement are:
- (i) [insert name]
 - (ii) [insert name]
 - (iii) [insert name]
 - (iv) [insert name]
 - (v) [insert name]
 - (vi) [insert name]
 - (vii) [insert name]
 - (viii) [insert name]
 - (ix) [insert name]
 - (x) [insert name]
 - (xi) [insert name]
 - (xii) [insert name]
 - (xiii) [insert name]
 - (xiv) [insert name]
 - (xv) [insert name]
- (the 'Framework Members')
- 1.3 This Framework Agreement sets out, amongst others, the award procedure for Services which may be required by the Contracting Authority, the main terms and conditions for any Call-Off Contract, and the obligations of the Framework Member during and after the Framework Period.
- 1.4 Membership of this Framework does not entitle the Member to be consulted in respect of, or awarded any contract during, the Framework Period. The Contracting Authority may at its sole discretion choose not to enter any contracts falling within the scope of this Framework Agreement, or to terminate the Agreement in accordance with Clause 9.
- 1.5 While this Framework Agreement will in general form the basis for the award of contracts during the Framework Period, the Contracting Authority reserves the right to operate outside the terms of the Framework Agreement, for example if it considers that it is not achieving value-for-money or the nature of the contract would benefit from a separate competitive process.

2 Period of Framework Agreement

- 2.1 The Framework Agreement shall take effect on the Commencement Date.
- 2.2 The Framework Agreement will be for a period of Four (4) years.

- 2.3** For the avoidance of doubt, the Contracting Authority confirms that the period of any contracts awarded under this Framework Agreement may extend beyond the date of expiry of the agreement.

3 Scope of Framework Agreement

- 3.1** This Framework Agreement relates to the provision of Digital for Business Consultancy Services for Fingal County Council and Dublin City Council Local Enterprise Offices
- 3.2** The scope of Services which may be awarded under this framework includes:
- 3.2.1 Call-Off Contracts within the scope of the Framework Agreement may comprise some or all elements of the Services as described in the detailed specification, being additional requirements which may arise.
- 3.3** The maximum value of the framework over its lifetime is €3,000,000 (excluding VAT).
- It should be emphasized that this value is not a guarantee of any spend over the life of the Framework Agreement.

4 Procedure for the Award of Call-Off Contracts

- 4.1** As and when the Contracting Authority decides to source Services through this Framework Agreement, then it may award a Call-Off Contract to the Framework Member based on the Tender using the Suitability Assessment and Cascade Allocation method.
- 4.2** When a Call-Off Contract is awarded to the Framework Member the Contracting Authority and the Framework Member shall enter a contract in accordance with the relevant contract Terms and Conditions as detailed in Schedule 4 as well as any Special Terms and Conditions that will be set out in the invitation. The Call-Off Contract shall be within the scope of contracts defined for the Framework Agreement.
- 4.3 Suitability Assessment and Cascade Allocation Procedure**
- 4.3.1 Where the Contracting Authority identifies a requirement falling within the scope of this Framework Agreement, the Contracting Authority may issue a Call-Off Request to a Framework Member at any time during the Framework Period.
- 4.3.2 For administrative and record purposes, the Framework Members may be listed in the order in which they were ranked following the evaluation of tenders submitted for the establishment of the Framework Agreement. Such ranking shall not, of itself, determine the allocation of Call-Off Contracts where a suitability assessment is undertaken in accordance with this Clause 4.3.
- 4.3.3 When a requirement arises, the Contracting Authority will identify the Framework Member whose named consultant is most suitably matched to the specific digital requirement and the needs of the client business.
- 4.3.4 In assessing suitability, the Contracting Authority may consider:
- the named consultant's digital expertise and specialist capability relevant to the assignment
 - the consultant's sectoral and subject-matter knowledge relevant to the client business
 - the alignment of the consultant's skills with the identified digital requirement, including areas such as e-commerce, CRM, online booking and payment systems, workflow tools, cybersecurity, cloud-based systems, data and analytics, automation, AI or other relevant digital solutions

- the consultant's capacity and availability to deliver the assignment within the required timeframe
- the Framework Member's ability to meet the required client engagement, reporting and service delivery standards and
- any actual, potential or perceived conflict of interest.

4.3.5 The suitability assessment will be based on the information provided by Framework Members as part of their original tender submission, together with any updated information requested by the Contracting Authority in respect of availability, capacity, conflicts of interest or other matters relevant to the specific assignment.

4.3.6 The information used in the suitability assessment will not be rescored at call-off stage. The purpose of the suitability assessment is to identify the Framework Member whose named consultant is most appropriately matched to the specific digital requirement and client need.

4.3.7 The Framework Member considered by the Contracting Authority to be the most suitably matched to the requirement will be invited to accept the assignment by way of a Call-Off Request. The Call-Off Request may be issued by purchase order, email or such other written means as the Contracting Authority considers appropriate.

4.3.8 The Call-Off Request will specify the scope of the assignment, the relevant client/business requirement, the applicable timeframe, reporting requirements, and the deadline for confirmation of acceptance by the Framework Member.

4.3.9 The Framework Member must confirm within the timeframe specified by the Contracting Authority whether it accepts the Call-Off Request. Upon receipt of acceptance, the Contracting Authority may proceed to award the Call-Off Contract to that Framework Member.

4.3.10 Where the Framework Member invited to accept the assignment is unable or unwilling to undertake the assignment, including due to availability, capacity or conflict of interest, the Contracting Authority may proceed to the next most suitably matched Framework Member, and so on, until the assignment is allocated or the Contracting Authority decides not to proceed with the Call-Off Request.

4.3.11 This cascade process is intended to ensure that each assignment is allocated, insofar as possible, to the Framework Member whose named consultant is best suited to the particular digital requirement and client need.

4.3.12 Nothing in this Clause shall oblige the Contracting Authority to award any Call-Off Contract under the Framework Agreement, and the Contracting Authority reserves the right not to proceed with any Call-Off Request at its discretion.

5 Notification of the Award of a Call-Off Contract

5.1 Where the Contracting Authority identifies a requirement under the Framework Agreement, the Contracting Authority may issue a Call-Off Request to the Framework Member identified as the most suitably matched in accordance with Clause 4.3.

5.2 The Call-Off Request may be issued by purchase order, email or such other written means as the Contracting Authority considers appropriate.

5.3 The Framework Member must confirm, within the timeframe specified by the Contracting Authority, whether it accepts the Call-Off Request.

5.4 Where the Framework Member confirms acceptance of the Call-Off Request, the Contracting Authority may proceed to award the Call-Off Contract to that Framework Member in accordance with the terms of this Framework Agreement and the relevant contract terms and conditions.

5.5 Where the Framework Member does not confirm acceptance within the timeframe specified, or confirms that it is unable or unwilling to undertake the assignment, the Contracting Authority may proceed to the next most suitably matched Framework Member in accordance with Clause 4.3.

5.6 The Contracting Authority is not obliged to award any Call-Off Contract under this Framework Agreement and may decide not to proceed with any Call-Off Request at its discretion.

6 Fixed Conditions for Contracts

6.1 Prices

The daily consultancy rate payable under the Framework Agreement is fixed at €900 excluding VAT. The fixed rate is inclusive of all travel, subsistence, out-of-pocket expenses and all other foreseeable costs associated with delivery of the services.

For the purposes of this Agreement, one consultancy day shall comprise of 8 hours of consultancy input, excluding travel time, unless otherwise agreed in writing by the relevant Local Enterprise Office. Assignments may be agreed on a full-day, half-day or other proportionate basis, as specified in the relevant Call-Off Request, email instruction or purchase order. Payment shall be made only in respect of the consultancy time approved by the Local Enterprise Office and following submission of the required reports/outputs.

6.2 Contract Manager

The Framework Member must nominate a contract manager to liaise with the Contracting Authority to ensure the successful operation of this Framework Agreement.

6.3 Personnel

The resources nominated by the Framework Member must be those used in the award of any contract under the framework and as detailed in Schedule 2.

Regarding personnel assigned to deliver services under the framework, where the successful Framework Member proposes to replace a nominated person, the proposed replacement person must be of equal or better qualifications and expertise than that of the original nominated person(s). Any replacements must be notified in writing to the Contracting Authority and must be agreed by the Contracting Authority prior to their commencement of any work under the Framework Agreement.

6.4 Service Level Agreement

Contracts under this framework agreement may be subject to the application of a Service Level Agreement which will outline the Key Performance Indicators applicable to the contract.

7 Obligations of Framework Members

7.1 Conflict of Interest

The Framework Member is required to inform the Contracting Authority of any conflict of interest of which it becomes aware during the period of the Framework Agreement. Any registrable interest involving the Framework Member and the Contracting Authority or employees of the Contracting Authority or their relatives must be communicated to the Contracting Authority immediately.

7.2 Interference and Inducement to Purchase

Any effort by the Framework Member to unduly influence the Contracting Authority, relevant agency personnel or any other relevant persons or bodies in the process of examination, clarification, evaluation and comparison of tenders and in decisions concerning the Award of Contract may have its appointment

terminated and/or any Call-Off Contract terminated. The presumptions (including as to any gift, consideration or advantage) and other provisions under the Criminal Justice Act 2018 (Ireland), and all other measures for the time being governing the subject-matter in any applicable jurisdiction, shall be applicable.

7.3 Insurances

The Framework Member is required to maintain, at a minimum, the levels and forms of insurance set out in the tender documents and as detailed in Schedule 3 of this Framework Agreement.

7.4 Tax Compliance

The Framework Member shall maintain a tax clearance status as declared by the Irish Revenue Commissioners throughout the Framework Period and the period of any contract being executed under the Framework Agreement (whichever is longer).

7.5 Assignment

The Framework Member shall not assign the benefit of its appointment under this Framework Agreement, or under any contract, or any part thereof, unless with the prior written agreement of the Contracting Authority.

7.6 Data Protection

The Framework Member must operate fully in compliance with all relevant Data Protection legislation and the Parties acknowledge that for the purposes of the Data Protection Laws, the Contracting Authority is the Data Controller and the Framework Member is the Data Processor in respect of Data which is Personal Data.

7.7 Confidentiality / Freedom of Information

- 7.7.1 The Framework Member must not disclose to anyone information that the Contracting Authority notifies the Framework Member is confidential except as necessary to perform the Framework Members' obligations under this Framework Agreement or a Call-Off Contract or to comply with the law.
- 7.7.2 The Framework Member undertakes to comply with all reasonable directions of the Contracting Authority with regard to the use and application of all and any confidential information and shall comply with the Confidentiality Agreement as set out.
- 7.7.3 The Framework Member acknowledges that the Contracting Authority is subject to the Freedom of Information Act 2014, as amended. In the event of the Contracting Authority receiving a request for information related to this Framework Agreement, the Contracting Authority shall consult with the Framework Member in respect of the request. The Framework Member shall identify any information that is not to be disclosed on grounds of commercial sensitivity and shall state the reasons for this sensitivity. The Contracting Authority will consult the Framework Member about this commercially sensitive information before making a decision on any Freedom of Information request received. The final decision on disclosure rests with the Office of the Information Commissioner and ultimately, the Irish courts.

7.8 Audit

The Framework Member shall keep and maintain until a minimum of six (6) years after the expiry of the Framework Period, full and proper records and all documents relating to the performance of its obligations under this Framework Agreement and shall allow the Contracting Authority and any auditors access to such records.

7.9 Publicity

Unless otherwise directed by the Contracting Authority, the Framework Member shall not make any press announcements or publicise this Framework Agreement in any way without the Contracting Authority's prior written consent.

7.10 Performance Review

The Contracting Authority and Framework Member shall liaise on a regular basis to address any issues arising which may impact on the performance of this Agreement and/or a Call-Off Contract to agree milestones, compliance schedules and operational protocols as required by the Contracting Authority from time to time. If requested in writing by the Contracting Authority, the Framework Member shall meet formally with the Contracting Authority to report on progress and shall comply with all written directions of the Contracting Authority.

8 Termination of Appointment

- 8.1** This Agreement may be terminated by the Contracting Authority, without liability for compensation or damages, by serving three (3) months written notice to the Framework Member.
- 8.2** A Framework Member may withdraw from this framework agreement without liability for compensation or damages, by serving six (6) months written notice to the Contracting Authority.
- 8.3** Without prejudice to any other rights or remedies to which it may be entitled, the Contracting Authority shall be entitled to terminate the appointment of the Framework Member forthwith and without liability by giving notice at any time if:
 - 8.3.1** The Member commits a material breach of any term or condition of this Framework Agreement, or a contract concluded under the Framework Agreement;
 - 8.3.2** The Member fails to perform any obligation or responsibility under this Agreement, or a contract concluded under the Framework Agreement, and, if such breach is capable of being remedied, fails to remedy the breach within fourteen (14) days of notice given by the Contracting Authority requiring the Member to do so;
 - 8.3.3** The Member convenes a meeting for the purposes of, or proposes to enter into any arrangement or composition for the benefit of its creditors;
 - 8.3.4** The Member is unable to pay its debts within the meaning of Section 570 of the Companies Act, 2014 or any analogous provision of law;
 - 8.3.5** An order is made, or an effective resolution is passed for the winding up of the Member's company other than for the purpose of restructuring the terms of which have been agreed by the Contracting Authority;
 - 8.3.6** A petition is presented, or an order is made, or a resolution passed, or any analogous proceedings or action is taken for the appointment of an examiner, administrator, receiver, trustee or any similar officer over the Members company;
 - 8.3.7** An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Member;
 - 8.3.8** The Contracting Authority reasonably believes that any of the events mentioned above is about to occur in relation to the Member and notifies the Member;
 - 8.3.9** The Member has committed any fraudulent act or any criminal activity or is guilty of gross negligence in the performance of this agreement or the relevant contract;
 - 8.3.10** Any representation made by the Member in connection with this Agreement or a contract shall in the opinion of the Contracting Authority prove to be untrue or incorrect in a material respect as of the date when made.

9 Termination of Framework Agreement

- 9.1** In circumstances outlined in Clause 8.1 and 8.2, the Contracting Authority reserves the right to terminate this Agreement by providing three (3) months' notice in writing to the Framework Member. The Framework Member shall have no claim for damages or otherwise against the Contracting Authority as a result of the Contracting Authority terminating this Framework Agreement in accordance with this Clause.
- 9.2** The Contracting Authority also reserves the right to terminate the framework agreement in the following circumstances:
- 9.2.1 Where improved value for money in terms of cost and/or quality is available through an alternative public procurement process established by the sector or at Government level.
- 9.2.2 Where the business needs of the organisation have changed, and the framework no longer meets those needs and/or where the budget available for the requirements defined by the framework agreement has substantially altered (increased or decreased).
- 9.3** In circumstances outlined in Clause 9.2, the Contracting Authority reserves the right to terminate this Agreement by providing fourteen (14) days notice in writing to the Framework Member. The Framework Member shall have no claim for damages or otherwise against the Contracting Authority as a result of the Contracting Authority terminating this Framework Agreement in accordance with this Clause.
- 9.4** Termination of the Framework Agreement pursuant to Clause 9.1, Clause 9.2 and Clause 9.3 shall not relieve or discharge the Framework Member from any obligations which may have accrued prior to such termination.
- 9.5** For the avoidance of doubt, termination of this Framework Agreement shall not affect the validity of any contract entered into by the Contracting Authority and any provider of the service pursuant to that Framework Agreement.

10 Notice

- 10.1** The address, email and telephone numbers of the parties for the purpose of the giving of notices under this Agreement are as follows:

The Contracting Authorities

Fingal County Council
County Hall
Main Street
Swords
Co Dublin

Dublin City Council
Civic Offices
Wood Quay
Dublin 8
D08 RF3F

The Framework Member

[Name of contact for notices]

[Address Line 1]

[Address Line 2]

[Address Line 3]

10.2 Any notice or other communication whether required or permitted to be given by one party hereto to the other shall be in writing and shall be deemed to have been duly given if signed by or on behalf of a duly authorised officer of the party giving the notice and:

10.2.1 If delivered, at the time of delivery to the addressee or its duly authorised agent;

10.2.2 If sent by pre-paid post, four (4) days after posting if addressed to the party to whom such notice is to be given at the address set forth for such party in this Agreement (or such other address as is from time to time notified to the other party hereto);

10.3 All notices to the Contracting Authority or the Framework Member from the other party under this Agreement or the relevant contract shall be in writing and sent to the appropriate address set out above.

10.4 All notices, documents and communications provided under this Agreement or the relevant contract shall be in the English language.

SIGNED:

On behalf of the CONTRACTING AUTHORITY (Fingal County Council)

Name:

(Block letters)

Position:

Signature:

Date:

Witnessed by (signature):

Witness name (Block letters):

On behalf of the CONTRACTING AUTHORITY (Dublin City Council)

Name (Block letters):

Position:

Signature:

Date:

Witnessed by (signature):

Witness name (Block letters):

On behalf of the Framework Member

Name (Block letters):

Position:

Signature:

Date:

Witnessed by (signature):

Witness name (Block letters):

Schedules to this agreement:

Schedule 1: Pricing Schedule - Form of Tender – from the Framework Members' tender response

Schedule 2: Resources – from the Framework Members' tender response

Schedule 3: Insurances – evidence of insurances in place as per levels required for the framework

Schedule 4: Proposed Contract Terms and Conditions

Schedule 5: Data Protection

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Schedule 1: Form of Tender

[from the Framework Members' tender response]

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Schedule 2: Resources

[from the Framework Members' tender response]

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Schedule 3: Insurances

[evidence of insurances in place as per levels required for the framework]

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Schedule 4: Proposed Contract Terms and Conditions

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Schedule 5: Data Protection

- 1** Processing by the Contractor
 - 1.1** Subject matter of processing
 - 1.2** Nature of processing
 - 1.3** Purpose of processing
 - 1.4** Duration of the processing
- 2** Types of personnel data
- 3** Categories of data subject

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