Oifig um Sholáthar Rialtais
Office of Government Procurement

Request for Tenders dated 14/08/2026
to establish a
Multi Supplier Framework Agreement
for the provision of Services related to the Receipt and Investigation of Protected Disclosures (THR081F)

Tender procedure: Open procedure

Tender Deadline: 08/09/2026 12:00pm noon

Contents

Part 1: Introduction

1.1 Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation (the "Contracting Authority") is issuing this request for tenders ("RFT") as a central purchasing body for use by the Framework Clients (defined below). The Office of Government Procurement (the "OGP") is an office within the Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation tasked with sourcing goods and services on behalf of the public service. References to the Contracting Authority will be deemed to include the OGP.

(The Contracting Authority invites tenders ("Tenders") from economic operators ("Tenderers") for appointment to a multi-supplier framework agreement (Lots 1, 2 & 3). Each Lot will result in a separate agreement (each a "Framework Agreement") for the provision of the services as described in Appendix 1 to this RFT (the "Services").

In summary, the Services which are described in more detail in Appendix 1, will comprise of:

A range of third party investigative and recipient services to public bodies seeking to meet their obligations under the Protected Disclosures Act 2014, as amended by the 2022 Act.

The Services are defined further in Appendix 1 of the RFT. The intention is that Framework Clients may purchase such Third-Party Protected Disclosures Services as, when and if specific needs arise within the terms of the Framework Agreement.

The Protected Disclosures Act 2014, as amended by the 2022 Act and aligned with the EU Whistleblowing Directive, strengthens protections for individuals reporting wrongdoing and significantly expands the range of people covered, including employees, contractors, volunteers, board members, and job applicants. Public bodies now have enhanced legal obligations to maintain clear, confidential reporting channels, and workers may opt to disclose concerns to an independent third party.

To support these requirements, the Office of Government Procurement (OGP) and the Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation (DPER) are developing a new central Framework to replace the existing arrangement (expiring September 2026), providing Public Service Bodies with access to independent investigation services, penalisation investigations, and a third-party Confidential Recipient service. This Framework will ensure consistent, compliant, and high-quality management of sensitive protected disclosures across the public sector.

The Framework will facilitate provision of Protected Disclosures Services nationwide to all Public Sector Bodies (PSBs) and persons prescribed under Section 7(2) of the Act.

The table below sets out the Lots, including the maximum number of Framework Members per Lot.

Lot Number	Lot Description	Maximum No. of Framework Members
Lot 1	Full investigative services into an alleged wrongdoing to be disclosed under the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, including the review of such investigations.	**5**
Lot 2	Full investigative services of allegations of penalisation or adverse treatment as a result of having made a disclosure of a wrongdoing to be made pursuant to the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, including the review of such investigations.	**3**
Lot 3	Provision of a third-party confidential recipient service pursuant to section 6(2) of the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, as amended (the "Confidential Recipient").	**2**

All Framework Members must meet the minimum selection and award criteria. Lots 1 and 2 require investigators with at least three essential specialisations (e.g. HR/Employment, Legal, Forensic/Accountancy, IT/Cyber, Data Protection, or PD Investigation expertise).

Specialised personnel may be added by Framework Members over the lifetime of the framework.

The framework agreement will be divided into three lots (each a "Lot") as described below. Each Lot will result in a separate framework agreement (each a "Framework Agreement").

Lot 1 – Full Investigative Services into Alleged Wrongdoing

Provision of full independent investigative services into alleged wrongdoing purported to be disclosed under the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, including the review of such investigations.

Lot 2 – Investigations of Alleged Penalisation or Adverse Treatment

Provision of full independent investigations of allegations of penalisation or adverse treatment as a result of having made a protected disclosure, including the review of such investigations.

Lot 3 – Third-Party Confidential Recipient Services (Section 6(2) PD Act)

Provision of a third-party confidential recipient service for receipt and initial assessment of disclosures made to an external party under Section 6(2) of the Act.

Award and Drawdown Mechanisms

It is anticipated that the majority of Service Contracts for Lot 1 will be awarded by way of cascade for once-off investigations, with mini-competitions available only for substantial requirements. Lot 2 and 3 will operate as direct drawdown via cascade only.

Mini-Competitions

Applicable to Lot 1 only, and only for:

- Service Contracts with an estimated value above €50,000, and
- Terms of 6 months or more (with possible extensions up to a maximum of 4 years).

Mini-competitions may be used where a Framework Client requires:

- multiple investigations over a defined period,
- specialised technical investigation profiles, or
- a tailored specification not suited to direct drawdown.

Evaluation will be on the basis of MEAT, in accordance with the award criteria.

Cascade Drawdown – Lots 1, 2 and 3.

Cascade will be used for once-off investigations under Lot 1, all standard investigations under Lot 2 and all third-party confidential recipient services under Lot 3.

Services Contracts will always be offered first to the highest-ranked Framework Member in the relevant Lot. Where the highest-ranked Framework Member is unable to accept or deliver a specific call-off contract due to capacity constraints, does not respond to Service Request Form request in the time provided, refusal, or has an identified conflict of interest, the Framework Client shall bypass that provider and formally approach the next ranked framework member in sequential order.
Framework Clients will, at its absolute discretion, decide on the appropriate course of action, in respect of any conflict of interest or potential conflict of interest on the part of a Framework Member.

There is no minimum or maximum value for cascade drawdown.

The term of a cascade Services Contract is typically once-off, not exceeding 4 years.

Case Review Services (Lots 1 and 2)

Cascade will apply where the Framework Client requires Case Review Services, including reviews of:

- an investigation conducted by another Framework Member,
- an investigation conducted by an external provider, or
- an internal investigation.

Service Request Process (Cascade)

The process for Lots 1, 2 and 3 is outlined below:

1. The Framework Client issues a Service Request & Data Protection Form electronically.
2. The first-ranked (or next in line) Framework Member reviews the request, confirms capacity, and completes required sections.

3. Capacity confirmation must be returned within 2 working days.
4. Upon Client review and acceptance, a Services Contract is issued for signature.
5. If declined or no response, the request is issued to the next-ranked Member.

No enforceable contract exists until both parties sign the Services Contract.

Submission of Tenders
Tenderers may submit for one, two, or all three Lots.
A single set of Tender Response Documents will apply to each Lot (TRD A, TRD B and TRD C)
Where tendering for multiple Lots, Tenderers must:

- clearly identify each Lot,
- ensure investigators proposed for Lots 1 or 2 meet specialisation requirements.

Contract Term
The Framework Agreement will be for four (4) years, with no extensions (in line with SI 284/2016). Individual Services Contracts may exceed the term of the Framework Agreement.

1.4 The following entities (each a "Framework Client") may award (or "call off") contracts (each a "Services Contract") under the Framework Agreement in accordance with the rules set out in the form of Framework Agreement set out at Appendix 5. The Contracting Authority is also a Framework Client.

1. Ministers of the Government of Ireland, Central Government Departments, Offices and non-commercial Agencies and Organisations which have a formal reporting and legal relationship to Central Government Departments, including all local authorities in Ireland (themselves including regional assemblies, local enterprise boards and library bodies);
2. Entities in the Irish health sector including but not limited to the Health Service Executive (HSE) and the Health Information and Quality Authority (HIQA), provided that such entities are contracting authorities within the meaning of Regulation 2 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016);
3. Contracting authorities which are Third Level Educational Institutions (including universities, technical universities, institutes of technology and members of the Education Procurement Service);
4. Contracting authorities which are Education and Training Boards (ETBs) and ETB schools, and primary, post-primary, special and secondary schools as well as ETBs acting on behalf of schools;
5. An Garda Síochána (Police);
6. The Irish Prison Service; and
7. The Defence Forces.
8. Persons prescribed by the Minister for Public Expenditure and Reform ('the Minister') under section 7(2) of the Protected Disclosures Act 2014 as amended

by the Protected Disclosures (Amendment) Act 2022 to receive protected disclosures in accordance with section 7(1) of that Act. The current list of such persons is set out in the S.I. No. 233/2025 - Protected Disclosures Act 2014 (Disclosure to Prescribed Persons) (Amendment) Order 2025 as may be amended or replaced by the Minister.

https://www.irishstatutebook.ie/eli/2020/si/367/made/en/print
https://www.irishstatutebook.ie/eli/2025/si/233/made/en/print?q=Protected+Disclosures+Act+2014

1.5 This public procurement competition (the "Competition") will be conducted in accordance with the open procedure under the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the "Regulations"). Any Framework Agreement that may result from this Competition will (subject to paragraph 1.6 below, if applicable, be for a term of 48 ("the Term").

1.6 The Contracting Authority shall not extend the Term. The Term will not exceed four (4) years.

1.7 The Contracting Authority estimates that the aggregate expenditure on the Services to be covered by the proposed Framework Agreements may amount to some €2,200,000 (excl. VAT) over the Term. Tenderers must understand that this figure is an estimate only based on current and future expected usage.

The following expenditure per Lot is provided as an estimate of values which may be drawn down over the Term of the Framework:

Service Description	Estimated Value
Lot 1: Full investigative services into an alleged wrongdoing to be disclosed under the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, including the review of such investigations.	€2,000,000
Lot 2: Full investigative services of allegations of penalisation or adverse treatment as a result of having made a disclosure of a wrongdoing to be made pursuant to the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, including the review of such investigations.	€90,000
Lot 3: Provision of a third-party confidential recipient service pursuant to section 6(2) of the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, as amended (the "Confidential Recipient").	€110,000
Total Estimated value	**€2,200,000**

1.8 Contracting Authority policy seeks to encourage participation on a fair and equal basis by Small and Medium Enterprises ("SME"s) in this Competition. SMEs that believe the scope of this Competition is beyond their technical or business capacity are encouraged, subject to paragraph 2.5, to explore the possibilities of forming relationships with other SMEs or with larger enterprises. Through such relationships they can participate and contribute to the successful implementation of any Services Contracts that may result from this Competition and therefore increase their social and economic benefits.

Larger enterprises are also encouraged, subject to paragraph 2.5, to consider the practical ways that SMEs can be included in their proposals to maximise the social and economic benefits of any Services Contracts that may result from this Competition.

Part 2: Instructions to Tenderers

2.1 IMPORTANT NOTICES

2.1.1 While every effort has been made to provide comprehensive and accurate information in all notices and documents prepared for the purposes of this Competition, the Contracting Authority does not accept any liability or provide any express or implied warranty in respect of any such information. Tenderers must form their own conclusions about the solution needed to meet the requirements set out in this RFT and may wish to consult their legal advisers.

2.1.2 The Contracting Authority / Framework Client does not bind itself to accept the lowest priced or any Tender.

This RFT does not constitute an offer or commitment to enter into a Framework Agreement and/or a Services Contract. The conclusion of a Framework Agreement with a Framework Member does not guarantee the award of any Services Contract.

No enforceable commitment of any kind will exist unless and until a formal written Framework Agreement has been executed by or on behalf of the Contracting Authority.

No contractual rights in relation to any Framework Client will exist unless and until a formal written Services Contract has been executed by or on behalf of the Framework Client.

Any notification of preferred bidder status by the Contracting Authority / Framework Client shall not give rise to any enforceable rights by the Tenderer.

The Contracting Authority may cancel this Competition (or, for the avoidance of doubt, any individual Lot)] at any time prior to a formal written Framework Agreement being executed by or on behalf of the Contracting Authority.

The award of a Framework Agreement or a Services Contract under the Framework Agreement does not confer exclusivity on the successful Tenderer(s).

Tenderers should note that neither the Contracting Authority nor any Framework Client shall be under any obligation to purchase any minimum value of Services under any Framework Agreement.

2.1.3 This RFT supersedes and replaces any and all previous documentation, communications and correspondence between the Contracting Authority and Tenderers, and Tenderers should place no reliance on such previous documentation and correspondence.

2.1.4 In this clause 2.1.4, “Data Protection Laws” means all applicable national and EU data protection laws, regulations and guidelines including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the “General Data Protection Regulation”), and any guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time.

The Contracting Authority will be a 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 RFT.

The Tenderer, as Data Controller in respect of any Personal Data provided by it in its Tender, is required to confirm in the statement required under paragraph 2.4 below 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 Contracting Authority, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of the participation of the Tenderer in this Competition or that the Tenderer otherwise has a legal basis for providing such Personal Data to the Contracting Authority for the purposes of its participation in this Competition.

2.1.5 The Contracting Authority would refer Tenderers in particular to the provisions of Regulation (EU) 2022/1031 on the access of third country economic operators, goods and services to the Union's public procurement and concession markets and procedures supporting negotiations on access of Union economic operators, goods and services to the public procurement and concession markets of third countries (International Procurement Instrument – IPI), and to their obligation to comply therewith.

In particular, tenderers and candidates should note in Article 6 of Regulation (EU) 2022/1031, the obligations for a Contracting Authority in the context of a procurement procedure where the EU Commission has adopted an IPI measure.

2.1.6 Tenderers are referred to the provisions of Regulation (EU) 2022/2560 of the European Parliament and of the Council on Foreign Subsidies distorting the Internal Market, in addition to Commission Implementing Regulation (EU) 2023/1441, and their obligation to comply therewith. In particular, tenderers and candidates should note the requirements in Articles 28 and 29 of Regulation (EU) 2022/2560 relating to the prior notification or declaration of foreign financial contributions, where the estimated value of the public procurement procedure is equal to or greater than the applicable financial thresholds set out therein. In that regard, Tenderers and Candidates are referred to Appendix 3A of the RFT.

2.2 COMPLIANT TENDERS

2.2.1 If a Tenderer fails to comply in any respect with the requirements of this paragraph 2.2.1, the Contracting Authority reserves the right to reject the Tenderer's Tender as non-compliant or, without prejudice to this right and subject to its obligations at law, to take any other action it considers appropriate including but not limited to:

- seeking written clarification from the Tenderer;
- seeking further information from the Tenderer; or
- waiving a requirement, which in the Contracting Authority's view, is non-material or procedural.

Tenderers are required:

(a) To complete and submit with their Tender the electronic version of the European Single Procurement Document ("eESPD"). Tenderers may submit an eESPD which has already been used in a previous procurement procedure PROVIDED THAT they confirm that: (i) the information contained in it continues to be correct and (ii) that they satisfy the Selection Criteria for this Competition as set out at part 3.2 below;:

(i) the information contained in it continues to be correct; and

(ii) that they satisfy the Selection Criteria for this Competition as set out at part 3.2 below.

(b) To submit all documentation which this RFT requires to be submitted <u>with their Tender;</u>

(c) To follow the format of this RFT and respond to each element in the order as set out in this RFT;

(d) To conform to and comply with all instructions and requirements set out within this RFT;

(e) To submit the statement required under paragraph 2.4 below; and

(f) Not to alter or edit this RFT in any way.

2.2.2 Without prejudice to the generality of paragraph 2.2.1, failure to comply with paragraph 2.6.1, 2.6.2 or 2.6.3 below will render the Tender non-compliant and it will be rejected.

2.3 FRAMEWORK AGREEMENT AND SERVICES CONTRACT

2.3.1 The award of Services Contracts under a Framework Agreement shall be made in accordance with the rules set out in the Framework Agreement at Appendix 5 to this RFT.

2.3.2 Tenderers should also note the terms and conditions of the Services Contract set out at Appendix 6 to this RFT.

2.3.3 Tenderers are required to confirm their acceptance of the terms and conditions of the Framework Agreement at Appendix 5 to this RFT and the Services Contract at Appendix 6 to this RFT by signing the Tenderer's Statement at Appendix 3. Tenderers may not amend the Framework Agreement or the Services Contract.

2.4 ACCEPTANCE OF RFT REQUIREMENTS

Each Tenderer is required to accept the provisions of this RFT. ALL TENDERERS MUST RETURN, with their Tender, a scanned signed copy of the Tenderer's Statement, as set out in Appendix 3, printed on the Tenderer's letterhead. The Contracting Authority must be able to read the scanned signature of the Tenderer. If possible, please sign documents using blue ink. If the Contracting Authority cannot read the scanned signature, Tenderers may be requested to resubmit. Tenderers may not amend the Tenderer's Statement.

2.5 CONSORTIA AND PRIME / SUBCONTRACTORS

Where a group of undertakings (in whatever form and regardless of the legal relationship between them) come together to submit a Tender in response to this RFT, the Contracting Authority will deal with all matters relating to this Competition through a single nominated entity authorised to represent all members of the group of undertakings. The Tenderer must provide details of all members of the group of undertakings and their role in the Tender and clearly and comprehensively set out the contact details including name, title, telephone number, postal address, facsimile number and email address of the nominated entity authorised to represent the Tenderer and to whom all communications shall be directed and accepted until this Competition has been completed or terminated. Correspondence from any other person will NOT be accepted, acknowledged or responded to.

Prior to and as a condition of appointment to any Framework Agreement, the successful Tenderer shall be required to designate a single entity who will carry overall responsibility for the Framework Agreement and any Services Contract (the "Prime Contractor"), irrespective of whether or not tasks are to be performed by a subcontractor or other consortium member (the "Subcontractor").

2.6 TENDER SUBMISSION REQUIREMENTS

2.6.1 Tenders must be submitted via the 'electronic tenderbox' available on ww.etenders.gov.ie. Only Tenders submitted to the electronic tenderbox will be accepted. Tenders submitted by any other means (including but not limited to: by email, fax, post, hand delivery, etc.) will NOT be accepted.

Tenderers must ensure that they give themselves sufficient time to upload and submit all required tender documentation in their Tender before the Tender Deadline (as defined in paragraph 2.6.2). Tenderers should take into account the fact that upload speeds vary.

Tenderers must note that in the electronic tenderbox, there is a current file size limit of 250MB for each single file uploaded, with a maximum total limit of 2GB for all documentation (combined) in the Tender submitted.

In order to submit a Tender to the electronic tenderbox, Tenderers must ensure that they follow the necessary steps on the eTenders platform to ensure that their tender has been submitted properly, which includes ensuring that the "Submit" button has been clicked. in the event that Tenderers need to modify or change any aspect of their Tender before the Tender Deadline, the Tender in its entirety will need to be re-submitted. Tenderers should be aware that the "Submit" button will be disabled automatically at the Tender Deadline.

2.6.2 Tenders must be received not later than **12 noon on 08/09/2026** (the "Tender Deadline"). Tenders that are received late WILL NOT be considered in this Competition.

2.6.3 Tenders must be submitted in English.

2.6.4 Subject to paragraph 2.14 and 2.18, each Tenderer is limited to submitting one Tender in its own capacity and one Tender as part of a consortium/group of undertakings under this RFT for each Lot.

2.6.5 All Tenders submitted in soft copy must be compiled such that they can be read immediately using Microsoft Word, PowerPoint or PDF readers. Tenderers must ensure that the document submitted is text searchable using non OCR software i.e. IT MUST NOT BE A

DOCUMENT THAT HAS BEEN SCANNED AS AN IMAGE OR PROTECTED AGAINST SEARCH. The Contracting Authority is not responsible for corruption in electronic documents. Tenderers must ensure electronic documents are not corrupt.

2.7 QUERIES AND CLARIFICATIONS

2.7.1 All queries relating to any aspect of this Competition or of this RFT must be directed to the messaging facility on www.etenders.gov.ie. Queries will be accepted no later than **12 noon on 28/08/2026** unless otherwise published by the Contracting Authority. For the avoidance of doubt, Tenderers may not contact potential Framework Clients regarding any aspect of this Competition.

2.7.2 All responses to queries will be issued by the Contracting Authority via the messaging facility on www.etenders.gov.ie. Where appropriate, queries may be amalgamated. Tenderers should note that the Contracting Authority will not respond to individual Tenderers privately.

2.7.3 The Contracting Authority reserves the right to issue or seek written clarifications.

2.7.4 The Contracting Authority reserves the right, at any time before the Tender Deadline, to update or amend the information contained in this document and/or to extend the Tender Deadline. Participating Tenderers will be informed of any such amendment or extension through the eTenders website.

2.7.5 Tenderers should ensure that they register their interest in this Competition, by clicking on the "Accept" button on www.etenders.gov.ie, in order to receive all responses to queries and other updates in relation to this Competition.

2.8 TENDERING COSTS

All costs and expenses incurred by Tenderers relating to their participation in this Competition including, but not being limited to, site visits, field trials, demonstrations and/or presentations shall be borne by and are a matter for discharge by the Tenderers exclusively.

2.9 CONFIDENTIALITY

2.9.1 All documentation, drawings, data, statistics, information, patterns, samples or material disclosed or furnished by the Contracting Authority to Tenderers during the course of this Competition:

(a) are furnished for the sole purpose of replying to this RFT only;

(b) may not be used, communicated, reproduced or published for any other purpose without the prior written permission of the Contracting Authority;

(c) shall be treated as confidential by the Tenderer and by any third parties (including subcontractors) engaged or consulted by the Tenderer; and

(d) must be returned immediately to the Contracting Authority upon cancellation or completion of this Competition if so requested by the Contracting Authority.

2.10 PRICING

2.10.1 All Tenderers must complete the Pricing Schedule at Appendix 2 to this RFT.

2.10.2 All prices quoted must be all-inclusive (i.e. including but not being limited to shipping, packaging, delivery, ancillary costs and all other costs/expenses), be expressed in Euro only and exclusive of VAT. The VAT rate(s) where applicable should be indicated separately.

2.10.3 Tenderers must confirm that all prices quoted in the Tender will remain valid for 180 days commencing from the Tender Deadline.

2.10.4 Any currency variations occurring over the term of the Services Contract shall be borne by the Tenderer.

2.10.5 Payments for Services provided pursuant to this RFT shall be subject to and made in accordance with the Services Contract at Appendix 6 to this RFT.

2.10.6 Tenderers should note that prices may be increased only on the second anniversary of the Effective Date of the Framework Agreement (as defined in the Framework Agreement) and then only by a maximum of 4%. The percentage increases may only be applied once they have been agreed with the Contracting Authority in writing. Only one increase on the Hourly Rates is permissible for the duration of the Framework Agreement.

For the avoidance of doubt, this clause 2.10.6 refers to the Maximum Hourly Rates under the Framework Agreement only, and does not apply to any Services Contract drawn down under the Framework. The SRFT, which will issue during a Mini-Competition will set out whether or not any similar conditions will be included in any Services Contract.

2.11 ENVIRONMENTAL, SOCIAL AND LABOUR LAW

2.11.1 In the performance of any Services Contract awarded, the successful Tenderer(s) and their Subcontractors (if any), shall be required to comply with all applicable obligations in the field of environmental, social and labour law that apply at the place where the services are provided, that have been established by EU law, national law, collective agreements or by international, environmental, social and labour law listed in Schedule 7 of the Regulations.

2.11.2 Tenderers shall be required to include an undertaking to comply fully with the provisions of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, business or parts of undertakings or business and as implemented in Irish law by Statutory Instrument S.I. No. 131 of 2003, the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 and to indemnify the Contracting Authority for any claim arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligations under the said Directive and Statutory Instrument.

2.11.3 The Protection of Employees (Temporary Agency Work) Act 2012 (the "2012 Act") provides that an Agency Worker (as defined in the 2012 Act) is entitled to the same basic working and employment conditions as those which apply to employees recruited directly by the Hirer (as defined in the 2012 Act) to do the same or a similar job. Where the provision of the Services will involve the provision to the Contracting Authority of Agency Workers (within the meaning of the 2012 Act), Tenderers should ensure that they consider their obligations under the 2012 Act when pricing their Tender. The Contracting Authority shall have no liability for any increase in salaries that may be payable as a result of the application of the 2012 Act to the provision of the Services.

2.12 PUBLICITY

No publicity regarding this Competition or any Framework Agreement, Mini Competition, or Services Contract pursuant to this Competition is permitted unless and until the Contracting Authority has given its prior written consent to the relevant communication.

2.13 REGISTRABLE INTEREST

Any Registrable Interest involving any Tenderer or Subcontractor and the Contracting Authority, any Framework Client, members of the Government, members of the Oireachtas, or employees and officers of the Contracting Authority or any Framework Client and their relatives must be fully disclosed in the Tender or, in the event of this information only coming to the notice of the Tenderer or Subcontractor after the submission of a Tender, must be communicated to the Contracting Authority immediately upon such information becoming known to the Tenderer/Subcontractor. The terms "Registrable Interest" and "Relative" shall be interpreted as per Section 2 of the Ethics in Public Office Acts 1995 and 2001, copies of which are available at www.irishstatutebook.ie. The Contracting Authority will, in its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or a Mini-Competition or terminating any Framework Agreement and / or Services Contract entered into by a Tenderer.

2.14 ANTI-COMPETITIVE CONDUCT

Tenderers' attention is drawn to the Competition Act 2002 (as amended, the "2002 Act"). The 2002 Act makes it a criminal offence for Tenderers to collude on prices or terms in a public procurement competition.

2.15 INDUSTRY TERMS USED IN THIS RFT

Where reference is made to a particular item, source, process, trademark, or type in this RFT then all such references are to be given the meaning generally understood in the relevant industry and operational environment.

2.16 FREEDOM OF INFORMATION

2.16.1 Tenderers should be aware that, under the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, information provided by them during this Competition may be liable to be disclosed.

2.16.2 Tenderers are asked to consider if any of the information supplied by them in their Tender should not be disclosed because of its confidentiality or commercial sensitivity. If Tenderers consider that certain information is not to be disclosed because of its confidentiality or commercial sensitivity, Tenderers must, when providing such information, clearly identify the specific sections of their Tender containing such information and specify the reasons for its confidentiality or commercial sensitivity. For the avoidance of doubt Tenderers may not assert confidentiality or commercial sensitivity over the entire Tender but must clearly identify the specific section containing such information. If Tenderers do not identify information as confidential or commercially sensitive, it is liable to be released in response to a request under the above legislation without further notice to or consultation with the Tenderer. The Contracting Authority will, where possible, consult with Tenderers about confidential or commercially sensitive information so identified before making its decision on a request received. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

2.17 TAX CLEARANCE

It will be a condition of any Framework Agreement or Services Contract pursuant to this Competition that the successful Tenderer(s) shall, for the term of such contract(s), comply with all applicable EU and domestic tax laws. Tenderers are referred to www.revenue.ie for further information. Prior to the award of any Framework Agreement or Services Contract arising out of this Competition, the successful Tenderer shall be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by the Contracting Authority. By supplying these numbers, the successful Tenderer acknowledges and agrees that the Contracting Authority has the permission of the successful Tenderer to verify its tax cleared position online.

2.18 CONFLICTS OF INTEREST

Any conflict of interest or potential conflict of interest on the part of a Tenderer, Subcontractor or individual employee(s) or agent(s) of a Tenderer or Subcontractor(s) must be fully disclosed to the Contracting Authority as soon as the conflict or potential conflict is or becomes apparent. Tenderers are required to declare that the preparation of their Tender was carried out independently. In the event of any actual or potential conflict of interest, the Contracting Authority may invite Tenderers to propose means by which the conflict of interest might be removed and in circumstances where there are links between Tenderers, the Contracting Authority may seek further information to confirm the Tenders have been prepared independently. The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or any Mini-Competition or terminating any Framework Agreement or Services Contract entered into by a Tenderer.

2.19 WITHDRAWAL FROM THIS COMPETITION

Tenderers are required to notify the Contracting Authority immediately, via the e-tenders website, if at any stage they decide to withdraw from this Competition.

2.20 SITE VISIT

2.20.1 *"Not Used"*

2.20.2 *"Not Used"*

2.21 INSURANCE

2.21.1 Services Contract (Cascade)

The successful Tenderer(s) shall be required to hold for the Term of the Services Contract awarded under the cascade mechanism the insurances set out in the table below and confirmed in the Service Request and Data Protection Form. Tenderers should note that they are not obliged to have insurances in place in order to enter into a Framework Agreement with the Contracting Authority.

Services Contract (Mini-Competition)

The successful Tenderer(s) shall be required to hold for the term of the Services Contract awarded by Mini-Competition, insurances of the type and to the minimum level specified in the SRFT and shall not be lower than the insurances set out in the table below. Tenderers should note that they are not obliged to have insurances in place in order to enter into a Framework Agreement with the Contracting Authority. The types of and minimum levels of insurance required shall not be lower than the following insurances.

Type of Insurance	*Indemnity Limit
Employer's Liability	€12.7 million limit for any one claim or series of claims arising out of a single occurrence (if self-employed this is not necessary).
Public Liability	€6.5 million for any one claim or series of claims arising out of a single occurrence per period of Insurance.
Professional Indemnity	A minimum of €6.5 million for any one occurrence and in the aggregate. Run off required for a minimum of 6 years post termination.
***Cyber Insurance**	No less than €5 million for any one claim and In the Aggregate.
Crime Insurance	€1 million for any one claim.

*The levels of Cyber Liability (including loss of data) required may vary on a Services Contract by Services Contract basis. Framework Clients will specify the required levels at Mini-Competition stage. Dependant on the size of the service provider, a higher Limit may be required. However, it is estimated that a minimum limit of €5 million per occurrence and in the annual aggregate may be sought. The Employers Liability and Public Liability policies should include an indemnity to principals' clause and these document/s should be made available to the Contracting Authority upon request prior to the award of (and shall be a condition of) any Services Contract. Higher limits may be required depending on the scope and nature of the Services being provided under any particular Services Contract and their associated risks. Crime Insurance must include cover for Third Party Theft and social engineering.

2.21.2 By signing the Tenderer's Statement at Appendix 3, Tenderers confirm that, if awarded a Services Contract arising from a Mini-Competition pursuant to the Framework Agreement, (i) they will, from the Effective Date of the Services Contract (as defined in the Services Contract), obtain and hold the types and levels of insurance as specified in the relevant SRFT, (ii) the territorial limits and jurisdiction of its insurance policies include Ireland and (iii) they are not aware of any exclusions, restrictions, conditions or warranties or, in the case of policies with an aggregate limit of indemnity, any outstanding claims, which could have a material adverse impact on the level of coverage specified above. A formal confirmation from the Tenderer's insurance company or broker to this effect will be requested from the successful Framework Member(s) prior to the award of (and shall be a condition of) any Services Contract.

2.21.3 The successful Tenderer will, during the term of the Services Contract, be required to:

(a) immediately advise the Contracting Authority and the Framework Client of any material change to its insured status;

(b) produce proof of current premiums paid upon request;

(c) produce valid certificates of insurance upon request.

Part 3: Selection and Award Criteria

3.1 COMPLIANT TENDERS

3.1 Only those Tenderers who have:-

(a) Submitted compliant Tenders pursuant to paragraph 2.2 above, and

(b) Declared by way of eESPD that either:

(i) no mandatory grounds for exclusion of the Tenderer pursuant to Regulation 57 of the Regulations apply to them, or

(ii) in circumstances where any mandatory exclusion grounds apply to the Tenderer (and where the Tenderer is not precluded from doing so under Regulation 57(17) of the Regulations), that it can provide evidence to the effect that measures taken by it are sufficient to demonstrate its reliability despite the existence of any such relevant exclusion ground, and

(c) Declared by way of eESPD that they satisfy the selection criteria for each Lot applied for in this Competition as set out in part 3.2 below (the "Selection Criteria"), will be evaluated in accordance with the Award Criteria at part 3.3 below.

However, please note that the Contracting Authority also reserves the right to exclude from evaluation a Tenderer to whom a discretionary ground for exclusion pursuant to Regulation 57 of the Regulations applies.

Tenderers should note that where a Tenderer is relying on the capacity of other entities (for example, Subcontractors) for the purposes of fulfilling any of the Selection Criteria in part 3.2 below it must ensure that each such entity:

(i) completes and submits a separate eESPD in respect of each such entity, and

(ii) when requested by the Contracting Authority, submit proof, to the satisfaction of the Contracting Authority, that each such entity will place the necessary resources at the disposal of the Tenderer.

Where a Tenderer (Prime Contractor) intends to subcontract any share of any Contract to a Subcontractor, but is not relying on the capacity of such Subcontractor for the purposes of fulfilling any of the Selection Criteria in part 3.2 below, it must ensure that each such Subcontractor submits a separate eESPD in respect of such Subcontractor completing those sections of the eESPD which are specified in section 2.D of the eESPD for this Competition.

The Contracting Authority may decide to examine Tenders before verifying the absence of exclusion grounds in Regulation 57 of the Regulations (the "Exclusion Grounds") and the fulfilment of the Selection Criteria.

However, notwithstanding anything to the contrary in this part 3.1, the Contracting Authority reserves the right to ask Tenderers at any moment during the Competition to submit any or all of the following for the purposes of verification of the status of the Tenderer (including the Prime Contractor and any Subcontractor):

(i) a Declaration in the form attached at Appendix 4;

(ii) evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground;

(iii) all or any of the supporting documents specified at paragraph 3.2 below;

(iv) information concerning the Tenderer, and any proposed subcontractors, suppliers or entities whose capacities are being relied on within the meaning of the public procurement Directives for the purposes of Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same) including, but not limited to, in respect of natural persons, copies of identity documents and, in respect of legal persons, a certificate or extract from the commercial register or other competent authority of the country in which the legal person is established; and

(v) information concerning the origin of goods, if any, for the purposes of assessing compliance with Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

If a Tenderer does not, upon request by the Contracting Authority, provide evidence which is considered by the Contracting Authority as sufficient to demonstrate (i) its fulfilment of the Selection Criteria (or any one of them) in accordance with this RFT and (ii) the absence of Exclusion Grounds or its reliability despite the existence of a relevant Exclusion Ground and (iii) that it does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576) and (iv) that the origin of goods, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same) then it shall be excluded from further participation in this Competition.

If a Tenderer does not, upon request by the Contracting Authority, provide evidence which is considered by the Contracting Authority as sufficient to demonstrate (i) the fulfilment by any Subcontractor on whose capacity the Prime Contractor relies of the Selection Criteria (or any one of them) in accordance with this RFT and (ii) the absence of Exclusion Grounds in respect of any Subcontractor, or the reliability of any Subcontractor despite the existence of a relevant Exclusion Ground and (iii) that any subcontractor, supplier, or other entity on whose capacity the prime contractor relies does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576) and (iv) that the origin of goods, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same) then it shall be excluded from further participation in this Competition *unless* it replaces the entity concerned with one which meets all relevant requirements of this RFT.

3.2 Selection Criteria

3.2 Tenderers will either pass OR fail each of the Selection Criteria in this part 3.2. A Tenderer who fails a selection criterion will be excluded from participating in this Competition.

3.2.A Economic and Financial Standing

Tenderers must declare by way of eESPD that they satisfy the financial and economic standing requirement(s) set out below in respect of each Lot tendered for and that they are able, upon request and without delay, to provide the supporting documentation specified below to the Contracting Authority in each case.

Minimum Turnover Level Requirement Lots 1 - 3:

Tenderers must demonstrate a turnover which is equal to or in excess of the minimum levels as set out in the Table below.

Minimum Requirement	Qualifying Threshold	Supporting Documentation to be provided when requested by the Contracting Authority
The Tenderer must declare by way of eESPD (Part IV) that it is able to pay its debts, identified on the current statement of assets and liabilities as being the debts as they fall due.	Pass/Fail	A letter from the Tenderer's principal auditors/independent accountants confirming that the Tenderer is able to pay its debts, identified on the current statement of assets and liabilities as being the debts as they fall due.
The Tenderer must declare by way of eESPD (Part IV) that it has a minimum annual turnover of at least €100,000 (Ex VAT) for each of the last three (3) financial years, or alternatively, if the date of establishment was more recent, that the annual turnover of the Tenderer for each year the Tenderer has been established is equal to or exceeds €100,000 (Ex VAT)	Pass/Fail	Submission of annual audited accounts or a letter from the Tenderer's principal auditors/independent accountants confirming that the Tenderer meets the minimum annual turnover requirements.

Tenderers must provide the supporting documentation specified above without delay when requested by the Contracting Authority. However, where the Tenderer is unable, for a valid reason, to provide the specified documentation, the Tenderer must inform the Contracting Authority of the valid reason as to why the documentation cannot be supplied and, if the Contracting Authority considers the reason given to be valid, provide such other suitable alternative documentation to prove, to the satisfaction of the Contracting Authority, their economic and financial capacity.

The above Economic and Financial Standing is a 'pass or fail' criterion. Tenderers that do not meet the above criterion will be eliminated from the Competition.

3.2. B Technical and Professional Ability – Pass/Fail Criteria

Tenderers must have the necessary resources and experience to provide a high-quality investigation or confidential recipient service of a similar nature to the Services sought at Appendix 1 Requirements & Specification. Framework Clients may require a gender balance of Investigators to respond to certain Cases, and therefore to participate on the Framework, Tenderers must be in a position to meet this requirement. For each Lot tendered for, Tenderers must put forward a minimum of two Nominated Investigators. A gender balance is necessary. At least one of the Nominated Investigators must be of the opposite gender.

Lot 1: Full investigative services into an alleged wrongdoing to be disclosed under the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, including the review of such investigations.

And

Lot 2: Full investigative services of allegations of penalisation or adverse treatment as a result of having made a disclosure of a wrongdoing to be made pursuant to the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, including the review of such investigations.

Criteria	*Minimum Requirement	Qualifying Threshold	Supporting Documentation to be provided
A. Ability to provide Investigators	Tenderers must provide the following: • Tenderers must demonstrate, by submitting Biographical Summaries that they have a minimum of three (3) Investigators with significant experience in the delivery of Protected Disclosure cases. • Tenderers must provide a minimum of three (3) up to a maximum of five (5) Biographical Summaries which demonstrates the significant proven experience of each of their Investigators in 3 or more of the 6 essential specialisations as set out in the table provided below. ***One of the nominated Investigators must be the Key Account Manager** ➢ A relevant 3rd level qualification is required for at least one of the essential specialisations below. ➢ Gender balance must be demonstrated. ➢ A minimum of two Case studies must be provided per Nominated Investigator. Where a Nominated	**Pass/ Fail**	• Tenderers must complete the Biographical Summary attached at A7 of the Tender Response Document – Part A for each of the resources cited. • Organisational Chart: Tenderers must provide an organisation chart setting out the structure of the organisation, the organisational hierarchy and reporting relationships

	Investigator has two or more essential specialisations one Case study per specialisation is required ➢ Organisational chart showing reporting relationships.		

	Essential Specialisation
1.	**Financial/Accountancy/Tax/Audit**
2.	**Legal**
3.	**HR/Employment**
4.	**IT/Cyber**
5.	**Data Protection**
6.	**Protected Disclosures Investigation experience**

*Tenderers must demonstrate their individual Nominated Investigators technical and professional ability to conduct investigations. Each individual Nominated Investigator must have experience in at least one of the identified areas of essential specialisation.

Professional ability will be defined as having a related 3rd level qualification in the area of essential specialisation and demonstrating relevant expertise within a Case study. Essential specialisation of Protected Disclosures Investigation experience does not require a 3rd level qualification.

Tenderers must, for Lot 1 or Lot 2 only, demonstrate their team of Nominated Investigators cover at least three (3) essential specialisation areas. Should a Tenderer propose to apply for both Lot 1 and Lot 2, their team of Nominated Investigators must have experience in at least three (3) essential specialisation areas (three per Lot).

Case Studies A minimum of two Case studies must be provided per Nominated Investigator/Nominated Confidential Recipient for each Lot. Where a Nominated Investigator has two or more essential specialisations one Case study per specialisation is required. For example, where a Nominated Investigator has been identified as having one specialisation, two case studies for that specialisation must be provided. Where a Nominated Investigator has been identified as having two specialisations, one case study for each specialisation must be provided. For the avoidance of doubt, the Nominated Investigator must have a third level qualification in that area of specialisation (where required).

Where required, the following will apply: -

- Case studies must relate to investigation services provided in the last five (5) years;
- Case studies must include details on the role of the Nominated Investigator:
- Case studies must clearly demonstrate the particular specialisation of the Nominated Investigator;
- Case studies must demonstrate experience or good understanding of Human Resource policies

For Lots 1 and 2, each case study must relate to protected disclosures, industrial relations or workplace investigations only. Other engagements (such as mediation services) not specific to protected disclosures, industrial relations or workplace investigations will not be considered suitable.
The details of a named referee must be included with each case study, whom may be contacted to verify or clarify aspects of these case studies.
Details of the referee must include:

- Client organisation name;
- Client referee information (Client name, address, contact information);
- Anonymised particulars of the investigation, including outcomes;
- Relevance of example to the requirements of Appendix 1 to the RFT; Date in which the Case or confidential recipient services commenced;
- Date of completion of the Case or of the handling of the sensitive information;

The client referee must provide written confirmation of the case study information within the tender submission. The page limit for each case study is **2 x A4 pages**.

Nominated Investigators shall be regarded as "Key Personnel" for the purposes of any Services Contract, and no change shall be made to the identity of the Nominated Investigators without the prior written consent of the Contracting Authority/Framework Client.

Lot 3: Provision of a third-party confidential recipient service pursuant to section 6(2) of the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, as amended (the "Confidential Recipient").

Criteria	*Minimum Requirement	Qualifying Threshold	Supporting Documentation to be provided
A. Ability to provide Confidential Recipients	Tenderers must provide the following: • Tenderers must provide a minimum of two (2) Biographical Summaries, up to a maximum of four (4) Biographical Summaries which demonstrates the significant proven experience of each of their capabilities as Confidential Recipients in 2 or more of the 3 essential specialisations as set out in the table below. ***One of the nominated Confidential Recipients must be the Key Account Manager** • Tenderers must demonstrate, by completing Biographical Summaries that they have a minimum of two (2) anonymised Confidential Recipients cases.	**Pass/ Fail**	• Tenderers must complete the Biographical Summary attached at A7 of the Tender Response Document – Part A for each of the resources cited. • Organisational Chart: Tenderers must provide an organisation chart setting out the structure of the organisation, the organisational hierarchy and reporting relationships

	• Gender balance must be demonstrated.		

	Essential Specialisation
1.	**HR/Employment**
2.	**Industrial Relations**
3.	**Experience/knowledge of the Protected Disclosures Act 2014**

The Nominated Confidential Recipients must show strong interpersonal skills (including mediation). The Nominated Confidential Recipients proposed must have experience in a human resources or industrial relations environment with experience of handling sensitive and confidential information, ideally in the context of acting as a Confidential Recipient and sufficient knowledge of employment legislation to enable them to carry out the functions outlined in Appendix 1. Experience/knowledge of the Protected Disclosures Act 2014 is essential.
Evidence in support of this experience, must include two (2) anonymised case studies, completed in the last five (5) years of dealing with the handling of sensitive information, preferably relating to acting as a Confidential Recipient receiving information on a wrongdoing disclosed under the Protected Disclosures Act and outcomes must be included (please see the Case Studies note for further information). Each case study must relate to the handling of sensitive information, preferably relating to the receipt of information relating to protected disclosures.
Tenderers must provide a written signed reference on headed paper from each Client organisation to whom the case study refers, within the tender response confirming the information provided in the Case study template is true and accurate.
Tenderers must provide the supporting documentation specified above without delay when requested by the Contracting Authority.

3.3 AWARD CRITERIA FOR SELECTION AS A FRAMEWORK AGREEMENT MEMBER

3.3.1 Appointment to the framework will be awarded on the basis of the most economically advantageous tender(s) as identified in accordance with the following criteria:

The Contracting Authority will apply the Award Criteria outlined in the Table below for each of Lots 1, 2 & 3.

The total number of marks available per Lot is 1,000.

Each Lot will be evaluated in accordance with the rules of this RFT.

Tenderers must score the minimum marks for each of the Qualitative Award Criteria (where they apply). Failure to achieve the minimum mark in any one of these Qualitative Criteria will result in the Tenderer's Tender being eliminated from further participation in this Competition and it will not be evaluated for costs for that Lot.

For the avoidance of doubt, Tenders will be evaluated and scored on the overall quality and comprehensiveness of their response to each of the three qualitative Award Criteria. <u>There will no sub criteria used.</u>

Award Criteria	Minimum Score Available	Minimum Score Required	Tender Response Document Reference	RFT Reference
1. Quality of the Tenderers Approach to Protected Disclosures Service Delivery to the Public Sector	**200**	**120**	**Tender Response Document Part B Section B1**	**Appendix 1 Requirements and Specifications**
2. Quality of the Tenderer's approach to Governance and Data security	**150**	**90**	**Tender Response Document Part B Section B2**	**Appendix 1 Requirements and Specifications**
3. Quality of Proposals on the incorporation of Environmentally Sustainable into the delivery of the Services	**50**	**30**	**Tender Response Document Part B Section B3**	**Appendix 1 Requirements and Specifications**
4. Cost	**600**	**N/A**	**Tender Response Document Part C Section 1**	
TOTAL	**1,000**			

All Lots Qualitative Assessment Award Criteria 1, 2 and 3 (400 Marks)

Please refer to Appendix 1 Part 3 for further information in relation to Responses required to Qualitative Award Criteria 1, 2 and 3.

- Qualitative Award Criteria will be assessed first.
- Only those Tenders that score a mark equal to or in excess of the Minimum Qualifying Threshold (as shown in the table above) for Award Criteria 1, 2 and Award Criteria 3, will proceed to be evaluated under Award Criterion 4 (Cost).
- Tenderers should note that they must achieve the minimum qualifying threshold (MQT) stated in respect of award criterion 1, 2 and 3. Failure to achieve the MQT will result in the elimination of the Tender from the Competition. Cost will not be evaluated for any Tender eliminated from the competition.
- **Scoring of the Qualitative Award Criterion 1, 2 and 3** will be based on an assessment of the information provided by Tenderers, which must be supplied by Tenderers via the completed Tender Response Document Part B which is provided as a separate attachment to this RFT. The Evaluation Group will assess the information provided and each response element will be awarded marks using the following scoring methodology set out below:

Scoring Methodology Award Criteria 1, 2 and 3.

Weighting	Meaning
91% - 100%	A response that demonstrates an excellent understanding of the requirements and provides comprehensive and convincing assurance that the Tenderer will deliver to an excellent standard.
80% - 90%	A response that demonstrates a very good understanding of the requirements and provides assurance that the Tenderer will deliver to a high standard.
60% - 79%	A response that demonstrates a satisfactory level of understanding of the requirements and gives reasonable assurance of delivery to an adequate standard but does not provide sufficiently convincing assurance to award a higher mark.
30% - 59%	A response where reservations exist. Lacks full credibility/convincing detail, and there is a significant risk that the services would not be delivered successfully.
1% - 29%	A response where serious reservations exist. This may be because, for example, insufficient detail is provided, and the response has fundamental flaws, or is seriously inadequate or seriously lacks credibility with a high risk of non-delivery.
0%	Response completely fails to address the criterion under consideration

All Lots: Cost Assessment Award Criterion 3 (Hourly Rate) (600 Marks)

The cost element of the award criteria will be assessed based on an **Hourly Rate.**

- Tenderers are required to complete the Pricing Table in Part C of the Tender Response Document (replicated for information at Appendix 2 of this RFT), from which the **Hourly Rate** is calculated.
- All prices quoted must be inclusive of all costs (including travel expenses and subsistence), expressed in Euro only, but exclusive of VAT.
- The lowest Hourly Rate tendered will receive maximum marks (600 Marks), the formula used will be as follows:

$$\text{Cost Score} = \frac{\text{Lowest Total Cost Submitted under the Framework Lot}}{\text{Total Cost under evaluation under the Framework Lot}} \times \text{Maximum Number of Marks Available (600 Marks)}$$

Ranking of Tenders

Once all Tenders have been evaluated in accordance with the methodologies set out above, the total Qualitative score for each Tender, per Lot, shall be added to the total Cost score for each Tender in the same Lot to provide a total score out of 1000 for the Tender in question.

All Tenders will be ranked in their Lots according to their total scores out of 1000. The highest scoring Tenderers per Lot up to the following maximums shall be eligible for admission onto each Framework Lot.

Lot 1 – up to a maximum of 5 Framework Members.

Lot 2 – up to a maximum of 3 Framework Members.

Lot 3 – up to a maximum of 2 Framework Member.

Tie Break:

In the event that two or more Tenders, deemed to be the lowest scoring qualifying Tenders within the Lot being evaluated, have achieved the same overall combined total score following the Qualitative/Cost Assessment and where only one place remains to be filled on the Framework the following tie-break approach will be adopted:

The Tenderer who has been awarded the highest marks for the total quality element (i.e. non-cost related element) of their Tender will be deemed to be the most economically advantageous tender (“MEAT”).

In the event of the application of this tie-break rule not resulting in the determination of a MEAT, this approach will continue to be applied to each of the Award Criteria in the descending order listed below until such time as a MEAT can be determined:

Order of Tie Break Evaluation Criteria:

- Quality of the Tenderers Approach to Protected Disclosures Service Delivery to the Public Sector
- Quality of the Tenderer's approach to Governance and Data security
- Quality of Proposals on the incorporation of Environmentally Sustainable into the delivery of the Services

In the unlikely event of the rules set out above failing to determine a MEAT, the preferred Tenderer shall be selected on the basis of random selection. In such a circumstance, representatives of each Tenderer that achieved the same highest marks are invited to attend at the Contracting Authority's premises to observe the random selection and Tenderers will be notified in advance of the time/date and location of the random selection procedure

3.3.2 Subject to paragraphs 2.1 (Important Notices) and 3.5 (Standstill Period) of this RFT, appointment to the framework of the highest ranked Tenderer(s) (as determined by paragraph 3.3.1) will be conditional upon:

(a) the Tenderer submitting the following evidence in respect of the Tenderer (including the Prime Contractor and any Subcontractors, as applicable in accordance with paragraph 3.1 above) to the extent not already provided, within seven (7) days of request by the Contracting Authority: (i) a Declaration in the form attached at Appendix 4; (ii) if applicable, evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground; (iii) all or any of the supporting documents specified at paragraph 3.2; and

(b) the evidence specified at paragraph 3.3.2(a) above demonstrating that each entity concerned meets the Selection Criteria and the compliance requirements specified at paragraph 3.1(b) and (c) above.

3.3.3 Tenderers should take note that, where a Services Contract is awarded by way of Mini-Competition, the Contracting Authority will require the Framework Member to whom it has decided to award the Services Contract to supply up-to-date evidence as set out in paragraph 3.3.2(a) above. Where the Framework Member cannot provide up-to-date evidence to demonstrate that each entity concerned meets the Selection Criteria and the compliance requirements specified at paragraph 3.1(b) and (c) above, then the Contracting Authority may proceed to offer the Services Contract to the next highest-ranked Tenderer.

3.4 PRESENTATION OF PROPOSALS

Tenderers may be required to make a presentation of the proposal contained in their Tender. The Contracting Authority will not be responsible for the cost of such presentations (in accordance with paragraph 2.8). Performance at presentations will NOT be evaluated.

3.5 STANDSTILL PERIOD

3.5.1 In circumstances where the European Communities (Public Authorities' Contracts) (Review Procedures) Regulations 2010 (Statutory Instrument 130 of 2010), as amended by the European Communities (Public Authorities' Contracts) (Review Procedures) (Amendment) Regulations 2015 (Statutory Instrument 192 of 2015) and the European Communities (Public Authorities' Contracts (Review Procedures) (Amendment) Regulation 2017 (Statutory Instrument 327 of 2017) apply, no contract can or will be executed or take effect until at least fourteen (14) calendar days after the day on which the Tenderers have been sent a notice informing them of the result of this Competition ("Standstill Period") if such notice is sent by electronic means. The Standstill Period shall be sixteen (16) calendar days if such notice is sent by other means. The preferred bidder will be notified of the decision of the Contracting Authority and of the expiry date of the Standstill Period.

3.5.2 Tenderers should note that the Contracting Authority may, when notifying Tenderers of the results of this Competition, include the scores obtained by the Tenderer concerned and the scores obtained by the lowest ranking preferred bidder in respect of each award criterion assessed by the Contracting Authority.

3.6 RETURN OF SIGNED FRAMEWORK AGREEMENT(S)

3.6.1 The successful Tenderer(s) must sign and return the Framework Agreement(s) in duplicate to the Contracting Authority no later than 7 calendar days from the date of expiry of the Standstill Period unless notified otherwise in writing by the Contracting Authority. A signed Framework Agreement returned by the successful Tenderer(s) is not binding on the Contracting Authority until the Contracting Authority has signed the Framework Agreement in accordance with paragraph 2.1.2 above.

3.6.2 Where the signed Framework Agreement has not been received by the Contracting Authority within the period as specified at paragraph 3.6.1 then the Contracting Authority may proceed to offer a Framework Agreement to the next highest-ranked Tenderer in accordance with paragraph 3.6.1 above.

Appendix 1 Part 1: Requirements and Specifications

Tenderers must address each of the issues and requirements in this part of the RFT and submit a detailed description in each case which demonstrates how these issues and requirements will be dealt with / met and their approach to the proposed delivery of the Services. A mere affirmative statement by the Tenderer that it can / will do so or a reiteration of the tender requirements is NOT sufficient in this regard.

The Protected Disclosures Act 2014

The Protected Disclosures Act[1], (the "Act") signed into law in July 2014, provides statutory protections for workers against reprisals in circumstances where they disclose information relating to wrongdoing that has come to their attention in the workplace where the disclosure is deemed a "Protected Disclosure" within the meaning of the Act. This Act provides a single overarching framework that protects whistle-blowers in a uniform manner in all sectors of the economy.

This Act has been amended by the transposition of Directive (EU) 2019/1937 which concerns protection of persons who report breaches of Union Law (the Whistleblowing Directive). The Directive expanded the definition of 'worker' in the 2014 Act. The definition of worker is broadly drawn and includes not only persons who are direct employees but also contractors, sub-contractors, agency workers, volunteers, trainees, shareholders, board members, job applicants, members of the police forces, members of the security forces and any person who interacts with the workplace on a contractual basis. Alongside this the Protected Disclosures Office was established within the Office of the Ombudsman. This office acts as a prescribed person of last resort and acts to fill gaps in the provisions of prescribed persons. Along with this the Office receives and follows up on disclosures made under section 8 of the Act relating to disclosures made to Ministers.

The Government Reform Unit is established in the Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation with responsibility for policy development and the preparation of legislative proposals for consideration by Government. They have published guidance[2] for assisting public service bodies in the performance of their functions under section 21(1) of the Protected Disclosures Act 2014 and have summarised the key features of the Act All public service bodies have the responsibility to have procedures in place and available to their employees for dealing with protected disclosures.

The Act provides a comprehensive suite of employment and other protections to whistle-blowers that are penalised by their employer or suffer a detriment from a third party on account of raising concerns regarding possible wrongdoing in their workplace.

A Protected Disclosure is defined under section 5 of the Act. For the purposes of the Act information is "relevant information" if— (a) in the reasonable belief of the worker, it tends to show one or more relevant wrongdoings, and (b) it came to the attention of the worker in connection with the worker's employment.

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[1] http://www.irishstatutebook.ie/pdf/2014/en.act.2014.0014.pdf

[2] https://assets.gov.ie/8752/e34572256f064479a2ee4f0deaf37b0b.pdf

The following matters are relevant wrongdoings for the purposes of the Act:

- that an offence has been, is being or is likely to be committed,
- that a person has failed, is failing or is likely to fail to comply with any legal obligation, other than one arising under the worker's contract of employment or other contract whereby the worker undertakes to do or perform personally any work or services,
- that a miscarriage of justice has occurred, is occurring or is likely to occur,
- that the health or safety of any individual has been, is being or is likely to be endangered,
- that the environment has been, is being or is likely to be damaged,
- that an unlawful or otherwise improper use of funds or resources of a public body, or of other public money, has occurred, is occurring or is likely to occur,
- that an act or omission by or on behalf of a public body is oppressive, discriminatory or grossly negligent or constitutes gross mismanagement, or
- that information tending to show any matter falling within any of the preceding paragraphs has been, is being or is likely to be concealed or destroyed.

The Act provides a number of distinct disclosure channels for potential whistle-blowers. It provides for a tiered or stepped disclosure process with a number of avenues open to workers as set out in the Act.

The Act provides for a number of protections when making a disclosure, which are listed below and explained in the Act:

- Protection from dismissal
- Protection from "penalisation"
- Interim relief
- Civil immunity re: damages
- Qualified privilege re: defamation
- Right of action in tort; and
- Protection of whistle-blower identity

The 2014 Act as amended in 2022 is available via the following link:

Revised Acts

It is a matter for each individual tenderer to familiarise itself with the terms of the Act including any amendments in respect of same (including but not limited to any amendments brought about as a result of Directive (EU) 2019/1937, as referred to below).

The Act places additional obligations on public bodies, such as the explicit requirement to have written procedures in place and available to their workers to deal with protected disclosures. A number of public bodies, particularly those dealing with high-profile public policy issues and/or large quantity of public funds, may be faced with a number of complex and sensitive protected disclosures issues. A proportion of workers making protected disclosers will wish to do so to a third party rather than their employer, as they are entitled to do under the Act.

The Directive is available via the following link: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1937

It is a matter for each individual tenderer to familiarise itself with the terms of the Act including any amendments in respect of same.

For further information regarding the Protected Disclosures Act (Amended) please consider the statutory guidance which has been updated to account for the amendments made to the 2014 Act in 2022.

Tenderers should be familiar with the supports and resources currently provided centrally and be aware of the necessity to remain up to date.

Framework Members must keep aware of any changes to legislation, new standards in best practice as well as any guidance issued by DPER, any statutory Codes of Practice issued by the Workplace Relations Commission (WRC) and any key Cases adjudicated by the WRC, the Labour Court or the courts that have any important implications for how the legislation should be interpreted.

Any such changes must be incorporated fully, the cost of this should be factored into the pricing.

Framework Members must agree to ongoing collaboration and regular review meetings with the Contracting Authority in this regard.

1. STRUCTURE OF THE FRAMEWORK AGREEMENT

The Framework Agreement has been structured to include three (3) separate Lots.

Lot No.	Lot Title
Lot 1	Full Investigative Services into an alleged wrongdoing to be disclosed under the Protected Disclosures Act 2014 (Amended) including the review of such investigations
Lot 2	Full Investigative Services of allegations of penalisation or adverse treatment as a result of having made a disclosure of a wrongdoing to be made pursuant to the Protected Disclosures Act 2014 (Amended) including the review of such investigations
Lot 3	Provision of a third party Confidential Recipient service pursuant to section 6(2) of the Protected Disclosures Act 2014 (Amended).

The Framework Member(s) will provide the Services as agent of the Framework Clients for the purposes of the Framework Clients' functions under the Protected Disclosures Act 2014 (amended) only as per the terms and conditions of the Framework Agreement at Appendix 5 and the Services Contract at Appendix 6 of this RFT.

Framework Client's specific requirements will be set out by means of:

a) the competitive process as set out in Section 5 of the Framework Agreement or

b) by way of Direct Drawdown Cascade

Framework Clients will deal with the informal stages of penalisation, bullying, harassment and sexual harassment complaints in-house where appropriate. It is important to note that every effort is made to resolve such complaints at an early stage by way of mediation. Mediation resources will be sourced separately by Framework Clients and do not form part of this Framework Agreement.

For ease of reference, the outline of this Appendix 1 is set out in the following format:

1. Services to be Delivered – the minimum service delivery specifications required under each Lot
2. General Requirements – the minimum specifications that apply to all Lots
3. Tender Proposal Structure and Content – the details on how to respond to this RFT
4. Services out of scope.
5. Basic Terms of Reference
6. Sample Protocol for Investigation of an Alleged Wrongdoing under the Protected Disclosures Act 2014
7. Sample Protocol for Investigation of an Allegations of Penalisation or Adverse Treatment on foot of a Protected Disclosure
8. Sample Protocol for acting as Confidential Recipient under the Protected Disclosures Act 2014

For information on the operation of the Framework(s), please see the Framework Agreement at Appendix 5 of this RFT (Clauses 5, 6, and 20 in particular).

2 Services to be Delivered

Cases

A Case (“Case”) is any investigation or review of an investigation or receipt of a Protected Disclosure.

An active Case is where communication and activities related to the Case are ongoing and/or a request to pause the Case has not been received from the Framework Client.

An inactive Case is where communication and activities related to the Case have paused for a period of three months or more with no indication of recommencement within one further month.

and/or

A request to pause the Case for a period of three months has been received from the Framework Client with an indication it will not recommence within one further month.

Framework Members must notify the OGP as soon as a request to pause a Case has been received or communication and activities related to a Case have ceased without indication of a timeline for recommencement from the Framework Client.

Any Case that commences during the contract period shall be completed even in the event that a Case has not been completed during the contract period.

Where an actual, perceived or potential conflict of interest has been identified and cannot be resolved, or where specific specialisation is required during the contract period that the contracted

Framework Member cannot fulfil within an agreed timeframe with the Client, the Client may seek to drawdown the services for that Lot from the next ranked Framework Member.

Framework Clients may not have full knowledge of the specialisations that may be required, in advance, for a Case or a Services Contract, and may require additional specialisations.

Where the Framework Member is unable to provide the required specialisation, the Framework Client reserves the right to source services using the cascade mechanism to drawdown from that Lot in order to meet their Case requirements.

The following sets out the requirements that all Framework Members must provide:

2.1
Lot 1: Full Investigative Services into an alleged wrongdoing to be disclosed under the Protected Disclosures Act 2014, as amended, including the review of such investigations;
and
Lot 2: Full Investigative Services of allegations of penalisation or adverse treatment as a result of having made a disclosure of a wrongdoing to be made pursuant to the Protected Disclosures Act 2014, as amended, including the review of such investigations

The Framework Client will communicate the specific requirements relevant to particular Cases at the time the SRFT/Service Request Form issues to the Framework Members.

The requirements that the Framework Member must provide are as follows:

a) Investigate the matter of the disclosure of a wrongdoing/complaint which the public body (the Framework Client) or a Confidential Recipient, if engaged under a Services Contract by the Framework Client, has identified in principle as a Protected Disclosure. For Lot 1 and 2, Framework Members may require access to any initial assessment carried out by the Framework Client or a Confidential Recipient, if engaged under a Services Contract by the Framework Client.
b) Conduct the Case in accordance with the investigation of wrongdoings under the Protected Disclosure Act and in accordance with the sample protocol set out in Appendix 1, Section 7 of this RFT, or in accordance with the protocol of any Framework Client, which may amend or replace the sample protocol at Appendix 1, Section 7 setting out the specific requirements of the Framework Client. The Case will also be conducted in accordance with any applicable organisational policy and procedural requirements (including in relation to handling of potential protected disclosures) of each of the Framework Clients. These will be set out at SRFT stage or in the Services Contract.
c) Adhere to the Terms of Reference set out at Appendix 1 of this RFT or terms of reference provided by the Framework Client.
d) Afford fair procedure and natural justice to both the Discloser and respondent(s).
e) Ensure an awareness of individual circumstances related to the Disclosure and afford the discloser and other potential witnesses and respondent(s) the expected dignity and respect.
f) Issue a report of the findings (based on the evidence presented) to the Framework Client. Tenderers should note that this report may be used for any legal proceedings issued or

complaints made to the Workplace Relations Commission under the Protected Disclosures Act 2014 (amended).

a) Make a finding as to whether the disclosure is a Protected Disclosure within the meaning of the Act and amounts to relevant information regarding relevant wrongdoing(s) in accordance with Section 5 of the Protected Disclosures Act 2014 (amended). (Lot 1) or determine whether each element of the complaint is upheld or not upheld or (where the complainant withdraws the complaint or refuses to cooperate with the investigation) make a finding of "no Case to answer"(Lot 2)

g) Be aware of the tone of the report and how it can come across to a discloser or witness. The language of the report must be impartial and to use a passive voice where possible when making statements regarding the credibility of claims of the disclosers and witnesses.

h) Comply with the requirement to protect the identity of the discloser under section 16 of the Protected Disclosures Act 2014 (amended) and comply with the Framework Client's directions under section 16 of the Act.

i) Comply with Data Protection Laws as set out at Appendix 6, the GDPR and any future legislation from the date at which it comes into effect.

j) Provide the Services as agent of the Framework Client for the purposes of the Framework Client's functions under the Protected Disclosures Act 2014 (amended) only as per the terms and conditions of the Framework Agreement at Appendix 5 and the Services Contract at Appendix 6 of this RFT.

k) Provide a rationale, related to the evidence presented, for the findings in respect of each element of the matter of the Protected Disclosure.

l) Provide an overall finding concluding whether or not an event occurred, or circumstances exist and the extent, if any, to which the event did occur, or the circumstances do exist.

m) Adhere to the timeframes for progressing the Case as advised in the relevant policy document or as otherwise set out in the Terms of Reference, SRFT or Services Contract by the Framework Client.

n) It is permissible to highlight any procedural flaws with the system but no other activities outside the scope of the Protocol and Terms of Reference should be undertaken without the prior consent of the Contracting Authority.

o) Implement an 'Early Warning' system, to communicate concerns, should delays arise <u>at any stage</u> during a Case.

As part of the Services, Framework Members must:

i. Perform all functions associated with the mandatory requirements and specific relevant investigation protocol.
ii. Perform all necessary functions as required of an investigator to include attending any meeting(s) and the fulfilment of the associated documentation and reporting.
iii. Provide trained/qualified and competent Nominated Investigator(s) for each Case as specified.
iv. Where requested, provide a copy of the report to a Framework Client for the purposes of undertaking a Case of allegations of penalisation received on foot of the relevant Protected Disclosure, ensuring compliance with both the 2014 Act and Data Protection Acts.
v. Have the capacity to undertake a Case of more than one disclosure concurrently.
vi. Have the capacity to undertake Cases at any location nationwide.

vii. Where a Framework Client requires a Nominated Investigator to be Garda vetted, comply with this requirement. Where this is required, it will be specified at SRFT/Service Request Form stage.

viii. Adhere to the timeframes for progressing the Case as advised in the relevant policy document or as otherwise set out.

IX. Provide administrative support, including the ability to produce Case reports. For the avoidance of doubt, all administrative support must be provided to the Investigators at no additional cost to the Framework Client.

x. Have the capacity to securely provide Services, such as interviews, virtually on request.

xi. The cost of delivering services at Framework Client's premises or the Framework Member's premises must be included in the tendered rates.

xii. In circumstances where services must be delivered at an alternative location outside the Framework Client's premises or the Framework Member's premises and only by agreement in advance with the Framework Client, the following shall apply:
    - All facilities used must be fit for purpose for the delivery of the Services
    - The facility must be easily accessible by means of public transport with disabilities access and must be equipped with the necessary equipment and ancillary materials to deliver the Services
    - The facility must be capable of accommodating the required number of people, being configured to suit individual requirements and conducive to a comfortable atmosphere
    - Any facilities suggested must be acceptable to the Framework Client and must be approved in advance by the Framework Client
    - Any additional costs associated with the provision of the alternative location must be agreed in advance with the Framework Client

Any facilities suggested must accept a 48-hour cancellation notice at no cost to the Framework Client. It is the successful Tenderer or Framework Members responsibility to ensure that the venue accommodates this.

The time limits advised for the Case should not, except in exceptional circumstances, exceed 60 working days and may be extended only subject to the agreement of the Framework Client. For the avoidance of doubt this is 60 consecutive working days excluding weekends. A full explanation of the reasons for the request of this extension must be provided in advance.

A flexible and responsive service is required. In addition to the timeframe for Cases as set out in any relevant Framework Client policy documents, the following minimum response times will apply:

TASK	MAXIMUM RESPONSE TIME
Acknowledge e-mail/phone call from Framework Clients	Within one (1) working day
Respond to straightforward queries	Three (3) working days
Facilitate meeting request	Three (3) working days
Respond to complex queries	Five (5) – ten (10) working days

Complete Case and submit the final Case report	Within sixty (60) working days from date of commissioning
Updates in writing on the progress of Cases	14 days
Written Interim Reports	Monthly

The successful Framework Member must agree an estimated timeline for completion of a Case with the Framework Client prior to commencement of the Case. The successful Framework Members will be expected to furnish interim reports and updates on Cases to the Framework Client within the timeframes set out in the table above.

The Framework Client may set milestone timeframes for specific components of the work to be completed by the Framework Member. The Framework Client may set out these milestones within the Services Contract or at an initial contract meeting with the Framework Member.

In the event that the Framework Client, in its sole discretion, is dissatisfied with the performance of any of the proposed investigator(s) provided, it may require that a replacement, with appropriate experience, be appointed by the Framework Member within a timeframe to be specified by the Framework Client.

Review of a Case/Investigation

Framework Clients may also wish to use this Framework as follows:

i. to undertake a review of a Case previously completed by a current Framework Member; and/or
ii. to undertake a review of a Case previously completed by another service provider who is not a Framework Member.
iii. to undertake a review of a Case previously completed by Public Body.

Where a review of a Case is to be carried out in accordance with (i) above, the Framework Member who completed the original Case, will be excluded to avoid any potential conflict of interest, from providing the review of the Case. However, that Framework Member will be required to cooperate fully with the Framework Client and any successful Framework Member assigned to undertake the review of the Case.

2.2 Lot 3: Provision of a third-party Confidential Recipient services pursuant to Section 6(2) of the Protected Disclosures Act 2014, as amended.

As part of the required service provision, Framework Members will be required to operate within the Protocol for acting as a Confidential Recipient under the Protected Disclosures Act 2014 (amended) at Appendix 1, Section 9 or in accordance with the protocol of any Framework Client which may amend or replace the protocol at Appendix 1, Section 9.

The requirements that the Framework Member must provide are as follows:

a) Provide a third-party disclosure recipient service pursuant to section 6(2) of the Protected Disclosures Act 2014 (amended) via telephone, postal, e-mail, internet, and in person, on behalf of the Framework Client
b) Liaise with a discloser to seek to ascertain the precise nature of the disclosure being made

c) Carry out an initial assessment of the disclosure on behalf of the Framework Client, including a preliminary assessment (which will not be final until such time as any necessary Cases have been concluded) as to whether the disclosure amounts to relevant information regarding relevant wrongdoing(s) in accordance with Section 5 of the Protected Disclosures Act 2014 (amended) and as to whether a full investigation of the alleged wrongdoing is warranted. If the disclosure does not amount to relevant wrongdoings in accordance with the Act, determine whether another policy of the Framework Client (e.g. grievance, dignity at work) could apply and advise the discloser and the Framework Client. Tenderers should note that this report may be used for any legal proceedings issued or complaints made to the Workplace Relations Commission under the Protected Disclosures Act 2014 (amended)
d) Be able to demonstrate a duty of care and respect to the discloser and maintain open lines of communication and dialogue
e) Be aware of the potential role of mediation that may be required should elements of grievances arise
f) Comply with the requirement to protect the identity of the discloser under section 16 of the Protected Disclosures Act 2014 (amended) and comply with the Framework Client's directions under section 16 of the Act
g) Advise the Framework Client when a disclosure has been received, and forwarding the information received and the initial assessment of the disclosure to the Framework Client
h) Provide the Services as agent of the Framework Client for the purposes of the Framework Client's functions under the Protected Disclosures Act 2014 (amended) only as per the terms and conditions of the Framework Agreement at Appendix 5 and the Services Contract at Appendix 6 of this RFT.
i) Comply with the provisions of the protocol as found at Appendix 1, Section 9.

As part of the required service provision, Framework Members must:

i. Perform all functions associated with the mandatory requirements and specific relevant protocol including within timeframes specified for acknowledgement and provisions of feedback within the Directive and Protected Disclosures Act as amended as well as the framework clients' procedures for the handling of protected disclosures, where required
ii. Perform all necessary functions as required of the Confidential Recipient to include any meetings and the fulfilment of the associated documentation and reporting
iii. Provide a trained/qualified and competent Nominated Confidential Recipient(s) for any initial assessments of disclosures carried out
iv. Be in a position to receive several disclosures concurrently
v. Have the capacity to receive disclosures and undertake initial assessments nationally
vi. Provide administrative support, including the ability to produce Case reports
vii. Have the capacity to provide Services, where feasible and secure, virtually on request.
viii. The cost of delivering services at Framework Client's premises or the Framework Member's premises must be included in the tendered rates.
ix. In circumstances where services must be delivered at an alternative location outside the Framework Client's premises or the Framework Member's premises and only by agreement in advance with the Framework Client, the following shall apply:
    - All facilities used must be fit for purpose for the delivery of the Services

- The facility must be easily accessible by means of public transport with disabilities access and must be equipped with the necessary equipment and ancillary materials to deliver the Services
- The facility must be capable of accommodating the required number of people, being configured to suit individual requirements and conducive to a comfortable atmosphere
- Any facilities suggested must be acceptable to the Framework Client and must be approved in advance by the Framework Client
- Any additional costs associated with the provision of the alternative location must be agreed in advance with the Framework Client
- Any facilities suggested must accept a 48 hour cancellation notice at no cost to the Framework Client. It is the successful Tenderer or Framework Members responsibility to ensure that the venue accommodates this.

Where a Framework Client requires an investigator to be Garda vetted, the Framework Member must comply with this requirement. Where this is required, it will be specified at Services Request stage.

Framework Clients may wish to award contracts from this Framework Lot in the following manner:

i. To a Framework Member to be a single source for receipt of a disclosure and initial assessment of disclosure on behalf of the Framework Client for a set period of time (i.e. 12 or 24 months, etc.)
ii. Ad hoc basis

In the event that a Tenderer is successful in this Lot and also in Lot 1 and/or Lot 2 and is awarded a contract for Confidential Recipient services by Services Contract, the Tenderer may not be in a position to be awarded a Call-Off Contract for the provision of services under Lot 1 or Lot 2 for that Framework Client where a conflict of interest cannot be resolved. Tenderers attention is drawn to Clause 2.18 of this RFT and to Clause 11 of Framework Agreement.

For example, where a Framework Member is the Confidential Recipient for a Framework Client and is in receipt of a disclosure and has completed the initial assessment of same disclosure with the finding for this to be further investigated. Where the Framework Client then uses the Services in Lot 1 or Lot 2, this could create a conflict of interest. However, it is recommended that each Case be assessed separately for actual, perceived or potential conflicts of interest.

Where the Framework Member identifies a risk of a conflict or potential conflict, they will (before starting work under the Call-Off Contract) inform the Framework Client of such conflicts of interest and how they plan to mitigate the risk. Details of such mitigation arrangements are to be sent to the Framework Client as soon as possible. On receiving this notification, the Client will, at its sole discretion, notify the Framework Member if the mitigation arrangements are acceptable or whether the risk or conflict remains.

If, in the judgment of the Framework Client, risk of conflict to and with the performance of Framework Members obligations under this Agreement remain, then the Framework Client may terminate the Call-Off Contract immediately upon written notice to the Framework Member; such termination of the Call-Off Contract shall be effective upon the receipt of such notice by Framework Member.

Where a Confidential Recipient service is to be carried out in accordance with 2.3 above, that Framework Member will be required to cooperate fully with any Framework Member assigned to undertake the Case.

2.3 Advisory Services

Framework Members may be required, from time to time, to provide advisory services to Framework Clients in support of their statutory obligations under the Protected Disclosures Act 2014 as amended by the Protected Disclosures (Amendment) Act 2022. Where requested, the Framework Member shall provide advisory support, including but not limited to:

a) Support and assistance in the development, review or refinement of policies, procedures and associated documentation relating to the handling of Protected Disclosures, and to the conduct of formal and informal investigations.
b) Advice and guidance on investigation processes, including best practice methodologies, procedural requirements, and the review of investigation process materials were requested by the Framework Client.
c) Support and assistance in the development of appropriate and compliant feedback mechanisms for communicating outcomes of Protected Disclosures investigations to disclosers and other relevant parties, in accordance with the Act and any applicable Framework Client procedures.
d) Advisory services shall be delivered in accordance with the requirements set out in this Appendix, including the governance, quality assurance, data protection and confidentiality obligations applicable to all Services under this Framework. The Framework Member shall ensure that any advisory services provided do not give rise to a conflict of interest in respect of any current or future Case.

3. General Requirements

This scope of general requirements are applicable to all Lots. Framework Members must provide the following.

3.1 Technical and Professional Resources

Protected Disclosures are a very serious matter with its conclusions having the power to dramatically affect the individuals involved. For a Confidential Recipient or Investigator to be accepted as credible and trustworthy by the parties involved, as well as potentially for judicial bodies, they must be free from actual and perceived conflict of interest or bias. Furthermore, the Investigator or Confidential Recipient must be a professional with training and experience in protected disclosures, workplace investigations, or industrial relations.

Any and all Investigators and Confidential Recipients proposed for this Framework Agreement must be acceptable to the Contracting Authority/Framework Client in its sole discretion for the purpose of this Framework Agreement. No change shall be made to the identity of the Investigator/Confidential Recipient without the prior written consent of the Contracting Authority/Framework Client.

In the event that the Contracting Authority, in its sole discretion, is dissatisfied with the performance of any Investigator/Confidential Recipient, it may require that a replacement, with appropriate experience, be appointed by the Framework Member within a timeframe to be specified by the Contracting Authority/Framework Client. The same minimum experience and requirements (including Garda vetting requirements) will apply to any replacement Investigator/Confidential Recipient.

Investigator/Confidential Recipient for each Lot must demonstrate Human Relations experience or good understanding of HR policies.

For Lots 1 and 2 Framework Clients may choose expertise of an investigator specific to their requirement and Tenderers must accommodate such requests.

Framework Clients may require that Investigators/Confidential Recipients under each of the Lots are Garda vetted prior to undertaking any Case. This will be stated in the SRFT or Service Request Form.

Framework Clients may require gender balance of Investigators and will have the option to choose male/female personnel or both. Tenderers must have the capacity to provide this option.

In Cases where a Framework Client identifies a requirement for more than one investigator, the lead investigator must have the related 3rd level qualification (where required), requisite experience and essential specialisation.

The Framework Member and all Investigators must be up to date on any and all changes to legislation, in particular the new EU Whistleblowing Directive, new standards in best practice as well as any guidance issued by DPER, any statutory Codes of Practice issued by the Workplace Relations Commission (WRC) and any key Cases adjudicated by the WRC, the Labour Court or the courts that have any important implications for how the legislation should be interpreted. Any such changes must be incorporated fully in the service provision, throughout the duration of the framework.

Framework Members must ensure that Framework Clients are provided with resources, which possess the requisite levels of knowledge, competencies/skillsets, and experience to enable satisfactory delivery of the Services to a high-quality standard. Knowledge management is key to ensuring organisational knowledge is constant and maintained.

Tenderer must have the capacity to undertake multiple Cases at any location nationwide.

3.2 Customer Account and Case Management

Framework Members, at a minimum, must be able to provide a system or platform for tracking and managing all contracts awarded to it under each relevant Lot.

In addition, the Framework Member shall propose in their tender response a dedicated Key Account Manager (the "Key Account Manager") to oversee the effective and efficient operation of the Framework Agreement and any contracts awarded thereunder. The Key Account Manager must not be a Nominated Investigator or Confidential Recipient.

The Key Account Manager shall be responsible for, inter alia:

- The day-to-day management of the Framework Agreement and any Contracts awarded thereunder
- Preparation of financial statements and any other reports (excluding Case Reports mentioned below) as required under the Framework Agreement and any Contracts awarded thereunder
- Monitoring and reporting to the Contracting Authority and Framework Clients on the Framework and any Contracts awarded thereunder
- Liaising with the Contracting Authority and Framework Clients to ensure the efficient and effective operation of the Framework
- Fully engaging in resolving any contract disputes

The Framework Member's Key Account Manager and the Contracting Authority/Framework Client shall meet every six (6) to 12 months or at any other time as deemed necessary by the Contracting Authority/Framework Client, in its sole discretion from time-to-time ("Contract Review Meetings"). The Key Account Manager shall attend Contract Review Meetings as required by the Contracting Authority/Framework Client.

Other attendees may be invited by the Contracting Authority/Framework Client to attend at Contract Review Meetings depending on the subject matter being proposed for discussion. Specifically, but not exclusively, Contract Review Meetings will seek to:

i. Review performance by the Framework Member
ii. Identify operational measures required of the Framework Member by the Contracting Authority/Framework Client to improve the actual performance by the Framework Member
iii. Review any results, reports or findings of any audits undertaken and confirm that the service delivery complies with the Framework Agreement
iv. Modify and/or adjust any corrective action previously introduced, as appropriate
v. Identify and discuss relevant issues between the parties to the Framework Agreement

Framework Members must have a complaints resolution and escalation procedure in place in order to determine the best course of action to resolve any concerns, in the event that the Contracting Authority is dissatisfied with the services or contract management.

The complaints procedure must address complaints handling, frontline resolution, investigation & recording of the complaint, response, redress, monitoring and learning.

The nominated Key Account Manager will be deemed 'Investigator/Confidential Recipient' and must be acceptable to the Contracting Authority/Framework Client in its sole discretion. No change shall be made to the identity of the Key Account Manager without the prior written consent of the Contracting Authority/Framework Client. In the event that the Contracting Authority, in its sole discretion, is dissatisfied with the performance of the Key Account Manager, it may require that a replacement Key Account Manager, with appropriate experience, be appointed by the Framework Member within a timeframe to be specified by the Contracting Authority/Framework Client.

Additional personnel proposed as Key Account Manager by the Framework Member will be subject to the requirements of this clause 3.2 (Customer Account Management) and Annex 1 of the Framework Agreement.

The Framework Member shall provide management information to the Contracting Authority and Framework Clients, as requested. The management information which may be required includes but is not limited to the following:

i. The number of Cases undertaken or Disclosures received (including those that were not classified as Protected Disclosures under the Act)
ii. The number of investigator/recipient hours for each Case undertaken
iii. The stage of the process at which each Case is at
iv. The cost to date charged for each Case undertaken under the Framework Agreement (Lots 1 and 2)
v. The cost to date charged for each receipt of disclosure and initial assessment under the Framework Agreement (Lot 3)
vi. Details of any relevant matters or issues arising.

Please also refer to Annex I of the Framework Agreement (as found at Appendix 5 of this RFT).

In addition to Contract Management, Case Reports prepared by the Nominated Investigators or Nominated Confidential Recipient may be required from time to time. The Framework Member shall provide any such Case Reports (either as interim or final) as required by the Framework Client in accordance with their relevant procedures and protocols and as set out at SRFT stage or in the Services Contract.

Management of Cases and any bespoke reports must be provided by Framework Members electronically and presented in Microsoft Excel or an equivalent agreed format.

Information may be requested for closed Cases for any Lot including reviews. Framework Clients may require information for FOI requests after contract completion.

3.3 Data Management

Framework Members must, at a minimum, be able to provide a system or platform for the storage and management of sensitive data and personal data, in compliance with Data Protection Laws as set out at Appendix 6.

Record keeping and confidentiality requirements specified in the Directive and included in the Protected Disclosures Act as amended and any statutory guidance issued under the Act must be complied with.

Framework Members must be able to ensure the security of data at all times in line with best industry practice and relevant legislation (including the Data Protection Laws as set out at Appendix 6, the GDPR and any future legislation relating to the protection of personal data) and guidance that may be issued by the Data Protection Commissioner of Ireland from time to time. Each Framework Member must:

- Work with Framework Clients to determine their respective responsibilities for compliance with obligations under the Data Protection Laws as set out at Appendix 6, the GDPR and any future legislation to ensure that data is managed and stored in a secure way to protect the user of the service, any persons making a disclosure, and any persons mentioned as part of that disclosure
- Put in place a plan for preventing and dealing with data security breaches. This should include the policy for notifying Framework Client/Employer accordingly
- Ensure their IT systems are tested to include details of frequency of data back-up, security of location for back-up files
- Ensure sufficient controls are in place to guarantee the integrity of records is preserved
- Return the data or any part of the data upon written request from the Framework Client within a specified period, with no extra charges or conditions, and in any event upon termination of the relevant Services Contract.

Tenderer's attention is drawn to clause 25 of the Services Contract and to the sample Security and Data Protection Policy at Schedule E to the Services Contract in respect of data protection and security requirements. The Framework Members must be in a position to comply with the requirements set out in Schedule E of the Services Contract and such other requirements of the Framework Client as may be set out in the SRFT/Service Request Form. The Framework Members will be required to comply, inter alia, with the following:

Data segregation (e.g. between customers): the Framework Member must be able to isolate each Framework Client's data.

Storage and Security of Data:

The Framework Member must work with Framework Clients and in accordance with the data protection requirements in the Services Contract to ensure that data is managed and stored in a secure way to protect the data subject, the integrity of the data and the Framework Client. In accordance with clause 1.1 of the Security and Data Protection Policy at Schedule E to the Services Contract, the Framework Member must ensure the security of data at all times complies with best industry practice and relevant legislation (Including the Data Protection Acts 1988 and 2003), and any future legislation from the date at which it comes into effect, the guidance that may be issued by the Data Protection Commissioner of Ireland from time to time, the Framework Client's directions and the data protection requirements in the Services Contract and any contractual amendments arising from future legislation.

Procedure for taking up Personal Data to new Service Provider:

Framework Members may be required to take up personal data from existing service providers or from Framework Clients. In such circumstances, the Framework Member will be required to manage the take-up of such personal data to ensure the integrity of personal data is preserved at all times and that it is done in accordance with its obligations under the Data Protection Laws as set out at Appendix 6, the GDPR and any subsequent legislation

Procedure for handover of Personal Data to Framework Clients on completion or termination of a Service Contract:

The Framework Member shall be required to support the delivery of an exit plan as agreed with the Framework Client ("Exit Plan"). In the event that the Services are transitioned to a new service provider on award of a new contract, the Framework Member shall be required, in conjunction with the Framework Client, to manage the transition to any new service provider in order to maintain service levels, including supporting the development and delivery of the Exit Plan and to comply with its obligations under the Data Protection Laws as set out at Appendix 6, the GDPR and any future legislation. The transfer of service from one service provider to the other shall be as seamless as possible with the minimum impact on a Framework Client. A register of records transferred must be maintained.

Framework Members are reminded that the employee of the Framework Client has the right of access to their personal records in certain circumstances in accordance with the Data Protection Laws as set out at Appendix 6.

No device which has customer data can be sent for repair, recycled or reused unless all personal data has been pseudonymised or anonymised.

Destruction of any data must be absolute and completed on any and all devices which may have had the data stored, transferred or processed on either a temporary or permanent basis upon request by the Framework Client. A written statement certifying same may be required from the Framework Member(s) on completion or termination of the Contract.

3.4 Governance and Data security.

The Framework Member must have systems in place for continually improving the quality of their Services and safeguarding high standards. The assurance of quality must extend to all suppliers contracted to provide Services under this Framework, including any subcontractors, third parties, and networks of suppliers and/or consortia members. This includes:

- Recognisably high standards of service provision.
- Transparent responsibility and accountability for those standards.
- A constant dynamic of improvement.
- Participation in a recognised international quality improvement programme

The Framework Member must have a documented Quality Standards and Governance Framework through which the Framework Member can ensure legal and regulatory compliance. In addition to progress updates and interim reports the Framework Members must provide monthly and annual reporting or as agreed with the Contracting Authority and Framework Client. The reporting will include but is not limited to:

- performance management, including monitoring and reporting on Case timescales

- quality management, including continuous professional development for staff, monitoring and reporting on staffing levels

- complaints procedures, including complaints handling, access, frontline resolution, investigation, recording the complaint, response, redress, monitoring and learning

The Framework Member must ensure confidentiality. Information and personal data disclosed by the end-user to the Framework Client must remain confidential and shall not be disclosed to a third party without the prior knowledge and consent of the individual.

3.5 Continuity of Services

Continuity of Service is imperative to the delivery of the Services related to Protected Disclosures. The Tenderer must have a business continuity plan. This plan must at a minimum include managing business disruption and highlight how the Services Provider will ensure an effective and continued delivery of Services, particularly during times where difficulties or issues may arise.

The business continuity plan should also address disaster recovery of the following:

Data Recovery in case of system failure

Resource levels to ensure continuity of high-quality professional service delivery

Continuity of support services

The continuity of services plan must include clear timelines for resolution of issues.

The Tender must have an Exit Plan. This plan must at a minimum include the approach to ceasing operations on the expiry of a Services Contract or in the event that a Contract is terminated for any reason.

3.6 Implementation Planning

Tenderers awarded contracts pursuant to this Framework will be required to provide services in an efficient manner and within a timeline agreed with Framework Clients which will depend upon the specific nature of the services required. The Framework Member must ensure a Contract Management Plan is in place and must also include a Service implementation plan at the outset.

3.7 Environmental Considerations

In 2019, the Department of Public Expenditure and Reform published Circular 20/2019: Promoting the use of Environmental and Social Considerations in Public Procurement. In line with this circular Tenderers are encouraged to integrate good Environmental and Social practices. Framework Members are encouraged to register as a national apprenticeship employer (https://www.apprenticeship.ie) or with a similar initiative.

4. Qualitative Award Criteria Requirements

Tenders must be completed in full using Part B of the Tender Response Document which is provided as a separate attachment to this RFT.

Using the template provided in the Tender Response Document, Tenderers must set out in a clear and comprehensive manner their proposed approach for the provision of the Services.

4.1 Quality of the Tenderers Approach to Protected Disclosures Service Delivery to the Public Sector (200 marks)

The Tenderer's response to this criterion must be submitted in the allotted space in Tender Response Document Part B.

Tenderers are required to demonstrate how they will plan and execute services requirements as part of any Services Contract(s) awarded under this Framework Agreement and their response is to include, but not be limited to, details on how they would propose to manage the following:

- **For Lot 1** Tenderers must demonstrate how they will approach and manage Protected Disclosures Cases and reviews. Tenderers must demonstrate in a clear and comprehensive manner how they propose to carry out the Cases and the methodologies by which the Tenderer will produce investigative reports and recommendations for the Contracting Authority and Framework Clients in order to meet the Requirements and Specifications set out in **Appendix 1.** This response must include an overview of how the interaction of clients with an investigator would operate from commencement of the Case through to the completion of the final report.

- For **Lot 2** – Tenderers must demonstrate how they will approach and manage Cases in relation to allegations of penalisation on foot of making a protected disclosure and reviews of such Cases. Tenderers must demonstrate in a clear and comprehensive manner how they propose to carry out the Cases and the methodologies by which the Tenderer will produce investigative reports and recommendations for the Contracting Authority and Framework Clients in order to meet the Requirements and Specifications set out in **Appendix 1.** This response must include an overview of how the interaction of clients with an investigator would operate from commencement of the Case through to the completion of the final report.

- For **Lot 3** – Tenderers must demonstrate how they will approach and manage being a recipient of disclosures. Tenderers must demonstrate in a clear and comprehensive manner how they propose to operate as a Confidential Recipient in order to meet the Requirements and Specifications set out in **Appendix 1.** This response must include an overview of how the interaction with persons wishing to make a disclosure would operate from the point of receipt to the provision of recommendations on next steps.

- **Please note that there are no sub-criteria**. Tenders will be evaluated and scored on the overall quality and comprehensiveness of their proposal.

- Please note the page limit for responses to **Award Criterion 1** is **8 x A4 pages**. Any pages beyond this will NOT be considered.
- Tenderers should note that all responses submitted in the TRD should be in Calibri font and no less than font size 11.
- Any additional information included as appendices, for example in the form of tables, brochures, graphics, or embedded links NOT permitted in response to the award criteria. Any such information submitted will NOT be considered.

4.2 Quality of the Tenderer's approach to Governance and Data security (150 Marks)

Maximum marks available – 150 **Minimum marks required – 90**

The Tenderer's response to this criterion must be submitted in the allotted space in Tender Response Document Part B.

Tenderers are required to demonstrate in detail their proposed approach to ensuring Data Governance and Data security including the Protection of Data for the Framework Clients that will satisfy all of the requirements of the specification as detailed in Section 3.2, 3.3 and 3.4 of Appendix 1. Tenderers' proposals must address all the requirement specified including, but not be limited to, their proposed approach to the following;

- **Data Management including procedure for transfer of personal data.**
- **Storage and Security of Data.**
- **Quality Standards and Governance Framework.**
- **Performance Management.**
- **Data Recovery & Business Continuity.**

- **Please note that there are no sub-criteria**. Tenders will be evaluated and scored on the overall quality and comprehensiveness of their proposal.
- Please note the page limit for responses to **Award Criterion 2** is **5 x A4 pages**. Any pages beyond this will NOT be considered.
- Tenderers should note that all responses submitted in the TRD should be in Calibri font and no less than font size 11.
- Any additional information included as appendices, for example in the form of tables, brochures, graphics, or embedded links NOT permitted in response to the award criteria. Any such information submitted will NOT be considered.

4.3 Quality of Proposals on the incorporation of Environmentally Sustainable into the delivery of the Services (50 Marks)

The Tenderers response to this criterion must be submitted in the allotted space in Tender Response Document Part B, attached to this Request for Tenders.

Tenderers must demonstrate how they support and implement environmental and sustainable efficiencies in their practices and in the delivery of Services awarded under thi Framework Agreement. Such measures may include but may not be limited to their proposed approach to

- prevention or minimisation of waste
- use of recycled products and recycling facilities
- energy conservation in buildings and use of equipment
- minimising storage requirements and use of paperless office solutions
- providing alternatives to one-use disposable products

- Tenders will be evaluated and scored on the overall quality and comprehensiveness of their response to Award Criterion C. **There are no sub criteria**.
- Please note the page limit for responses to **Award Criterion 3** in total is **3 x A4 pages**. Any pages beyond this will NOT be considered.
- Tenderers should note that all responses submitted in the Tender Response Document should be in Calibri font and no less than font size 11.
- Any additional information included as appendices, for example in the form of tables, brochures, graphics, or embedded links is NOT permitted in response to the award criteria. Any such information submitted will NOT be considered.

5 SERVICES OUT OF SCOPE

The following items are considered to be outside of the scope of the Framework Agreement:

- Mediation
- Legal Services

6. Basic Terms of Reference

The Contracting Authorities Internal Policy, Terms of Reference, Guidance and/or Protocol shall be adhered to by the Contractor. The Contracting Authorities may amend these basic Terms of Reference to suit their particular requirements.

1. The Terms of Reference for the **Cases** will include, but are not limited to:

(a) Investigate the complaint;

(b) Conduct the Case in accordance with any applicable organisational policy requirements, for example and specific to the civil service only, the relevant Protocol for Investigations. These are included at Appendix 1, Section 7 and Section 8 to this RFT. Any relevant organisational policy will be set out by the Framework Client when completing the Terms of Reference.

(c) Afford fair procedure and natural justice to both the complainant and respondent

(d) Issue a report of the findings based on the evidence presented.

(e) Provide a rationale, related to the evidence presented, for the finding/s in respect of each element of the complaint.

(f) Provide an overall finding concluding whether or not an event occurred or circumstances exist and the extent, if any, to which the event did occur or the circumstances do exist.

(g) Adhere to the timeframes for expediting the Case as advised in the RFT, in the relevant policy document or as otherwise set out in the Terms of Reference.

1.2 As part of the required service provision under this Lot, Framework Members will be required to:

(a) Perform all functions associated with the Terms of Reference and specific relevant investigation protocol of the Framework Client.
(b) Provide for each Case investigator(s) as specified in their Tender.
(c) Provide a written record of all interviews carried out in exercise of the Case.
(d) Perform all necessary functions as required, to include any meeting/s and the fulfilment of the associated documentation and reporting required for each Case.
(e) Undertake an investigation of more than one complaint concurrently, but not exceeding the initial limits set out at RFT Part 1, paragraph 1.3.
(f) Undertake investigations of Cases nationally, in a professional and expedient manner
(g) Provide administrative support including the ability to produce Case reports, duly assessed for quality, audit trail and duly signed off by the lead investigator

Prior to accepting any new Case(s) Framework Members will be:

- required to confirm no conflict of interest exists with any proposed Case where a Nominated Investigator will be assigned; and
- subject to limitations regarding the number of live Cases: each Framework Member must not exceed the initial limit of ongoing Cases

Reviews of Investigations

1.3 The Services required under this Lot is the provision of investigators to formally undertake **reviews** of protected disclosures investigations. This may include where the findings of the initial Case have been appealed, under specific grounds/right to appeal, as advised in the relevant policy document/Client's disciplinary processes or as otherwise set out in the Terms of Reference.

The Framework Client will communicate the specific requirements relevant to particular reviews of Cases at the time the Services Contract issues to the Framework Member.

The Terms of Reference (TOR) for the **Review of Investigations** will include, but are not limited to:

Review of an Investigation

Framework Clients may use the review Services as follows:

i. to undertake a review of a Case previously completed by a current Framework Member; and/or
ii. to undertake a review of a Case previously completed by another service provider who is not a Framework Member.

As part of the required service provision, Framework Members will be required to:

iii. Adhere to the timeframes for expediting a review of a Case, as advised in the relevant policy document or as otherwise set out in the Terms of Reference.
    (a) Upon reviewing a completed Case the Framework Member will produce a report with a recommendation and will:
    have regard to the original Terms of Reference
    (b) have regard to the procedures undertaken over the course of the original Case
    (c) provide a rationale for all decisions, which may identify any breaches of adherence to relevant policy documents, to ensure the Case was robustly executed and natural justice and fair procedure were applied

Where a review of a Case is to be carried out the Framework Member who completed the original Case, will be automatically excluded from providing the review of the Case to avoid any potential conflict of interest. However, in this instance, that Framework Member will be required to cooperate fully with the Framework Client and any Framework Member assigned to undertake the review of the Case.

7. Sample Protocol for Investigation of an Alleged Wrongdoing under the Protected Disclosures Act 2014

Where an investigation of wrong-doing under the Protected Disclosures Act is authorised, or is contracted for under this Framework, by a public body the Framework Member shall consider first and foremost if he/she is aware of any actual or potential conflict of interest ("Conflict") on the part of a Framework Member (including any employee(s), suppliers, agents or Subcontractor) must be fully disclosed to the Contracting Authority and any relevant Framework Client(s) immediately in writing as soon as the Conflict becomes apparent to the Framework Member. In the event of any Conflict, the Contracting Authority and / or the Framework Client(s) may invite the Framework Member to propose means by which the Conflict might be removed. The Contracting Authority and / or the Framework Client(s) will, in their absolute discretion, decide on the appropriate course of action.

General Requirements

Framework Members must comply with and adhere to this Protocol (or any other as stated by Framework Clients). A Case will commence on a date agreed between the Framework Client and Framework Member.

The dates on which meetings are convened and the order within which meetings are scheduled, rests with the investigator but the sequencing of interviewing firstly the worker making the disclosure under the Act, secondly the discloser's witnesses, thirdly the respondent(s) (if relevant), and lastly the respondent's witnesses should be followed.

The Case will cover the specific claim of wrongdoing under the Protected Disclosures Act. Information/evidence arising during the course of the Case that points to wrongdoing other than the wrongdoing alleged in the disclosure should be framed and addressed as a separate disclosure.

Framework Members must anonymise the information obtained and provided in so far as reasonably practical. Where this is not possible, the following must be considered:

In order to comply with section 16 of the Act, where the assessment shows that it may constitute a protected disclosure, the identity of the person must only be revealed by the Contracting Authority/Framework Client.

A record should be kept of all Case meetings.

Review of Relevant Documentation

- Desktop review of any supporting documentation (files, invoices, e-mails, etc.) that throw light on whether a relevant wrongdoing for the purposes of the Act has occurred.
- Commission/review of relevant expert report on any technical, clinical, legal, etc. aspects arising in the context of the protected disclosure.
- Review of written statements provided by the discloser and any relevant respondent

Engaging with the person making a disclosure of wrongdoing

Depending on the circumstances of the disclosure, details may be submitted by the discloser and/or any witnesses by way of a written statement and/or interview.

Interviewing the discloser

- Interview the person making the disclosure
- Advise that the Case will be conducted with due regard to confidentiality, in particular the confidentiality provisions set out in the Act
- Where parties to the Case are being interviewed, their representative may accompany them at all meetings with the investigator(s).
- Ask the person making the disclosure to provide full details of the matter of the disclosure.
- Ask the person making the disclosure to identify the name/s and contact details of any witness who has relevant information in relation to their allegation of wrongdoing under the Act.
- Forward minutes of the Case interview to the person making the disclosure and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minutes.
- The acceptance of any proposed amendments is a matter for the investigator(s).
- Forward the final minutes of the meeting to the person making the disclosure, setting out the basis on which any amendments proposed were rejected.

Interviewing a discloser's witness:

- Invite the nominated witness to a meeting
- Advise the witness that s/he is entitled to be represented at the Case interview/s by a work colleague or trade union representative but it would not be appropriate for such an accompanying person to be a party to the Case or another witness who will also be interviewed or making a statement during the course of the Case.
- At the meeting, inform the witness that:
    - The Case will be conducted with due regard to confidentiality, in particular the confidentiality provisions set out in the Act.
    - Where other parties are named as part of the alleged wrongdoing in the disclosure, a copy of his/her statement duly anonymised will be furnished to those parties in the interests of natural justice.
    - That s/he should not discuss the details of the Case or other related matters to the alleged wrongdoing with any other party.
- In setting the background to the alleged wrongdoing, witnesses should only be given sufficient information to allow the investigator(s) determine what occurred in relation to the allegation.
- Witnesses should be asked:
    - What precisely occurred?
    - Who was involved?
    - When the incident/s occurred?

  - Where the incident/s occurred?
  - Whether there were any other witnesses to the event/s?
- Forward minute of the Case interview to the witness and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigator(s).
- Forward, to the witness, the final minutes of the witness' interview, setting out the basis on which any amendments proposed were rejected.
- Witness Conflicting Accounts: Where the investigator(s) is faced with two conflicting accounts of the alleged wrongdoing and where no witnesses are available or where their evidence is not persuasive, the Case rests upon which version of events the investigator(s) considers the more credible. In such instances, a rationale must be provided.
- Should the investigator(s) become aware that any attempt has been made to persuade any witness to change his/her testimony, the matter should be reported immediately to the Framework Client. Any such interference is normally regarded as a serious breach of discipline and subject to disciplinary action.

Interviewing a respondent:

- Interview respondent.
- Advise that the Case will be conducted with due regard to confidentiality, in particular the confidentiality provisions set out in the Act.
- Where parties to the Case are being interviewed, their representative may accompany them at all meetings with the investigator(s).
- Ask the respondent to provide detailed information on the incident event under investigation.
- Ask respondent to identify the name/s and contact details of any witness who has relevant information in relation to their specific complaint/s.
- Forward minute of the Case interview to respondent and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigator(s).
- Forward the final minute of the meeting to the respondent, setting out the basis on which any amendments proposed were rejected.

Interviewing a respondent's witness:

- Invite the nominated witness to a meeting
- Advise the witness that s/he is entitled to be represented at the Case interview/s by a work colleague or trade union representative but it would not be appropriate for such an accompanying person to be a party to the Case or another witness who will also be interviewed or making a statement during the course of the Case.
- At the meeting, inform the witness that:

    - The Case will be conducted with due regard to confidentiality.
    - A copy of his/her statement duly anonymised will be furnished to any parties named by the discloser as participating in the alleged wrongdoing.
    - That s/he should not discuss the details of the investigation of the allegation of wrongdoing or other related matters to the complaint with any other party.
  - In setting the background to the allegation of wrongdoing, witnesses should only be given sufficient information to allow the investigator(s) determine what occurred in relation to the allegation.
- Witnesses should be asked:
    - What precisely occurred?
    - Who was involved?
    - When the incident/s occurred?
    - Where the incident/s occurred?
    - Whether there were any other witnesses to the event/s?
- Forward minute of the Case interview to the witness and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigator(s).
- Forward, to the witness, the final minute of the witness' interview, setting out the basis on which any amendments proposed were rejected.
- Witness Conflicting Accounts: Where the investigator(s) is faced with two conflicting accounts of the alleged wrongdoing and where no witnesses are available or where their evidence is not persuasive, the Case rests upon which version of events the investigator(s) considers the more credible but a rationale must be provided.
- Should the investigator become aware that any attempt has been made to persuade any witness to change his/her testimony, the matter should be reported immediately to the Framework Client. Any such interference is regarded as a serious breach of discipline and will be subject to disciplinary action.

<u>Further Action:</u>

- Only documentation and statements gathered during the course of the Case, which are relevant to the allegation of wrongdoing, shall be taken into consideration.
- On completion of any interviews, if relevant, parties to the alleged wrongdoing will be provided with a copy of the minutes of all interviews undertaken duly anonymised (including interviews with witnesses).
- As appropriate to determining the facts of the allegation of wrongdoing, the investigator(s) may need to interview other persons named in statements referenced during the course of Case meetings or indeed re-interview anyone previously interviewed (over the course of Case meeting/s) with a view to determining a finding on the validity or not, of any allegation of wrongdoing.

- If deemed appropriate by the investigator(s), meet the person making the disclosure of wrongdoing in relation to matters arising, which require further clarification.
- If deemed appropriate by the investigator(s), meet the respondent in relation to matters arising, which require further clarification.
- If, during the course of the Case, the investigator(s) is presented with additional matters relating to the original alleged wrongdoing, the investigator(s) should notify the parties to the complaint of any such information or evidence and provide an opportunity for the parties to the alleged wrongdoing to respond. No new disclosures of unrelated wrongdoing(s) may be entered into this Case.
- It is essential that detailed, accurate minutes be taken at all Case interviews conducted over the course of the Case.
- Prepare final Case report.

<u>Final Case Report:</u>

- Once the investigator has gathered all foreseeable relevant information that is available, analysis leading to conclusions must be performed.
- The investigator should assess the credibility of each party and witness, and determine what is more likely to have occurred.
- On the findings of fact, the investigator should then determine whether what has happened constitutes a wrongdoing as set out in the Protected Disclosures Act 2014 and/or organisational policy.
- The investigator must be aware of the tone of the report and how it can come across to a discloser or witness. The language of the report should attempt to be impartial and to use a passive voice where possible when make statements regarding the credibility of claims of the disclosers and witnesses.
- If wrongdoing is found to have occurred, the investigator may make recommendations on the appropriate management response. The report to management, i.e. the Framework Client, can then be prepared.
- Case reports must include, but is not limited to the following information, as appropriate to the specific circumstances:
  - Legal and policy basis of the Case, as well as applicable professional standards;
  - Description of the investigator's engagement and background of the complaint;
  - Statement of independence of the investigator;
  - Summary of allegations of the person making the disclosure under the Protected Disclosures Act;
  - Summary of respondent's response to allegations;
  - Listing of information gathered, including interviews held and documentation reviewed;
  - If any witnesses or leads provided by the parties were not interviewed/pursued, an explanation why not;
  - Assessment of credibility for each party and witness;

  - Investigator's findings of fact;
  - Investigator's rationale in respect of each element of the disclosure of alleged wrongdoing and determine whether each element of the disclosure is confirmed, not confirmed or ruled out.
  - Investigator's determination of whether relevant wrongdoing within the terms of the Protected Disclosures Act has occurred;
  - Investigator's recommendations to management;
  - Other relevant information.
- The time limits advised with respect to the 60 working days may be extended only in very extenuating circumstances subject to the discretion of the Framework Client.
- The Framework Member may be asked by the Framework Client to make a recommendation to the Framework Client as to whether copies of the final Case report should be forwarded to the parties to the disclosure of wrongdoing. It will be a matter for the Framework Client to decide whether copies of the final Case should be forwarded to the parties.

Data Protection:
The Framework Member shall act as agent for the Framework Client for the purposes of the Framework Client's functions under the Protected Disclosures Act 2014 and comply with such further obligations as the Framework Client may reasonably require.

The Framework Member shall comply with all requirements of data protection law and such data protection policies and / or guidelines as may be issued by the Minister or the Data Protection Commissioner from time to time including but not limited to (i) the Data Protection Acts 1998 and 2003, as amended; (ii) the General Data Protection Regulation (Regulation (EU) 2016/679 of 27 April 2016); and (iii) all EU data protection requirements and any legislation and regulations implementing same.

Any decisions in relation to section 16 of the Protected Disclosures Act 2014 are a matter for the Framework Client solely.

The Framework Member shall co-operate with the Framework Client in any Impact Assessment carried out by the Client.

The Framework Member must provide the Framework Client, immediately upon request of the Framework Client, with any evidence which the Framework Client may require to demonstrate compliance by the Framework Member of this Protocol and, in so far as the Framework Member is a data processor, to demonstrate compliance with the provisions of clause 7 under the heading of 'Confidentiality' of the Services Contract.

8. Sample Protocol for Investigation of an Allegations of Penalisation or Adverse Treatment on foot of a Protected Disclosure

Where an investigation of allegations of penalisation or adverse treatment on foot of a Protected Disclosure is authorised or is contracted for under this Framework by a public body, the Framework Member shall consider first and foremost if he/she is aware of any actual or potential conflict of interest ("Conflict") on the part of a Framework Member (including for the purposes of this Appendix 11 any employee(s), suppliers, agents or Subcontractor) must be fully disclosed to the relevant Framework Client(s) immediately in writing as soon as the Conflict becomes apparent to the Framework Member. In the event of any Conflict, the Framework Client(s) may invite the Framework Member to propose means by which the Conflict might be removed. The Framework Client(s) will, in their absolute discretion, decide on the appropriate course of action.

General Requirements

Framework Members must comply with and adhere to this Protocol (or any other as stated by Framework Clients). A Case will commence on a date agreed between the Framework Client and Framework Member.

The dates on which meetings are convened and the order within which meetings are scheduled, rests with the investigation team but the sequencing of interviewing firstly a complainant, secondly the complainant's witnesses, thirdly the respondent, and lastly the respondent's witnesses should be followed.

Framework Members must anonymise the information obtained and provided in so far as reasonably practical. Where this is not possible, the following must be considered:

In order to comply with section 16 of the Act, where the assessment shows that it may constitute a protected disclosure, the identity of the person must only be revealed by the Contracting Authority/Framework Client.

A record should be kept of all Case meetings.

Review of Relevant Documentation

- Desktop review of any supporting documentation (files, invoices, e-mails, etc.) that throw light on whether a relevant penalisation or adverse treatment on foot of a protected disclosure for the purposes of the Act has occurred.
- Commission/review of relevant expert report on any technical, clinical, legal, etc. aspects arising in the context of the allegation of penalisation or adverse treatment on foot of a protected disclosure.
- Review of written statements provided by the discloser and any relevant respondent

Interviewing a complainant

- Interview complainant
- Advise that the Case will be conducted with due regard to confidentiality, in particular the confidentiality provisions set out in the Act
- Where parties to the Case are being interviewed, their representative may accompany them at all meetings with the investigator(s).
- Ask complainant to identify the name/s and contact details of any witness who has relevant information in relation to their specific complaint/s.
- Forward minutes of the Case interview to complainant and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigator(s).
- Forward the final minute of the meeting to the complainant, setting out the basis on which any amendments proposed were rejected.

Interviewing a complainant's witness:

- Invite the nominated witness to a meeting
- Advise the witness that s/he is entitled to be represented at the Case interview/s for instance by a work colleague or trade union representative but it would not be appropriate for such an accompanying person to be a party to the Case or another witness who will also be interviewed or making a statement during the course of the Case.
- At the meeting, inform the witness that:
    - The Case will be conducted with due regard to confidentiality, in particular the confidentiality provisions set out in the Act:
    - A copy of his/her statement duly anonymised will be furnished to the parties of the complaint.
    - That s/he should not discuss the details of the complaint, Case or other related matters to the complaint with any other party.
- In setting the background to the complaint, witnesses should only be given sufficient information to allow the investigator(s) determine what occurred in relation to the allegation.
- Witnesses should be asked:
    - What precisely occurred?
    - Who was involved?
    - When the incident/s occurred?
    - Where the incident/s occurred?
    - Whether there were any other witnesses to the event/s?
- Forward minute of the Case interview to the witness and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigator(s).

- Forward, to the witness, the final minutes of the witness' interview, setting out the basis on which any amendments proposed were rejected.
- Witness Conflicting Accounts: Where the investigator(s) is faced with two conflicting accounts of the alleged incident and where no witnesses are available or where their evidence is not persuasive, the Case rests upon which version of events the investigator(s) considers the more credible. In such instances, a rationale must be provided.
- Should the investigator(s) become aware that any attempt has been made to persuade any witness to change his/her testimony; the matter should be reported immediately to the Framework Client. Any such interference is regarded as a serious breach of discipline and will be subject to disciplinary action.

<u>Interviewing a respondent:</u>

- Interview respondent
- Advise that the Case will be conducted with due regard to confidentiality
- Where parties to the Case are being interviewed, their representative may accompany them at all meetings with the investigator(s).
- Ask respondent to identify the name/s and contact details of any witness who has relevant information in relation to their specific complaint/s.
- Forward minute of the Case interview to respondent and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigator(s).
- Forward the final minute of the meeting to the respondent, setting out the basis on which any amendments proposed were rejected.

<u>Interviewing a respondent's witness:</u>

- Invite the nominated witness to a meeting
- Advise the witness that s/he is entitled to be represented at the Case interview/s by a work colleague or trade union representative but it would not be appropriate for such an accompanying person to be a party to the Case or another witness who will also be interviewed or making a statement during the course of the Case.
- At the meeting, inform the witness that:
  - The Case will be conducted with due regard to confidentiality
  - A copy of his/her statement duly anonymised will be furnished to the parties to the complaint.
  - That s/he should not discuss the details of the complaint Case or other related matters to the complaint with any other party.
- In setting the background to the complaint, witnesses should only be given sufficient information to allow the investigator(s) determine what occurred in relation to the allegation.

- Witnesses should be asked:
  - What precisely occurred?
  - Who was involved?
  - When the incident/s occurred?
  - Where the incident/s occurred?
  - Whether there were any other witnesses to the event/s?
- Forward minute of the Case interview to the witness and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigator(s).
- Forward, to the witness, the final minute of the witness' interview, setting out the basis on which any amendments proposed were rejected.
- Witness Conflicting Accounts: Where the investigator(s) is faced with two conflicting accounts of the alleged incident and where no witnesses are available or where their evidence is not persuasive, the Case rests upon which version of events the investigator considers the more credible but a rationale must be provided.
- Should the investigator(s) become aware that any attempt has been made to persuade any witness to change his/her testimony, the matter should be reported immediately to the Framework Client. Any such interference is regarded as a serious breach of discipline and will be subject to disciplinary action.

Further Action:

- Only documentation and statements gathered during the course of the Case, which are relevant to the complaint, shall be taken into consideration.
- On completion of all interviews, each party to the complaint will be provided with a copy of the minutes of all interviews conducted (including interviews with witnesses) duly anonymised if required.
- As appropriate to determining the facts of the allegation, the investigator(s) may need to interview other persons named in statements referenced during the course of Case meetings or indeed re-interview anyone previously interviewed (over the course of Case meeting/s) with a view to determining a finding on the validity or not, of any allegation.
- If deemed appropriate by the investigator(s), meet the complainant in relation to matters arising, which require further clarification.
- If deemed appropriate by the investigator(s), meet the respondent in relation to matters arising which require further clarification
- If, during the course of the Case, the investigator(s) is presented with additional matters relating to the original complaint, the investigator(s) should notify the parties to the complaint of any such information or evidence and provide an opportunity for the parties to the complaint to respond. No new complaints may be entered into this Case.

- It is essential that detailed accurate minutes be taken at all Case interviews conducted over the course of the Case.
- Prepare final Case report.

Final Case Report:

- Once the investigator has gathered all foreseeable relevant information that is available, analysis leading to conclusions must be performed.
- The investigator should assess the credibility of each party and witness, and determine what is more likely to have occurred.
- On the findings of fact, the investigator should then determine whether what has happened constitute violations of applicable legislation and/or organisational policy.
- The investigator must be aware of the tone of the report and how it can come across to a discloser or witness. The language of the report should attempt to be impartial and to use a passive voice where possible when make statements regarding the credibility of claims of the disclosers and witnesses.

- If wrongdoing is found to have occurred, the investigator should make recommendations on the appropriate management response. The report to management, i.e. the Framework Client, can then be prepared.
- Case reports must include, but is not limited to the following information, as appropriate to the specific circumstances:
    - Legal and policy basis of the Case, as well as applicable professional standards
    - Description of the investigator's engagement and background of the complaint
    - Statement of independence of the investigator
    - Summary of complainant's allegations
    - Summary of respondent's response to allegations
    - Listing of information gathered, including interviews held and documentation reviewed
    - If any witnesses or leads provided by the parties were not interviewed/pursued, an explanation as to why not
    - Assessment of credibility for each party and witness
    - Investigator's findings of fact
    - Investigators rationale in respect of each element of the complaint and determine whether each element of the complaint is upheld, not upheld or ruled out
    - Investigator's determination of whether the penalisation or adverse treatment on foot of a protected disclosure has occurred
    - Investigator's recommendations to management
    - Other relevant information.

- The time limits advised with respect to the 60 working days may be extended only in very extenuating circumstances subject to the discretion of the Framework Client.
- The Framework Member may be asked by the Framework Client to make a recommendation to the Framework Client as to whether copies of the final Case report should be forwarded to the parties to the allegations. However, it will be a matter for the Framework Client to decide whether copies of the final Case should be forwarded to the parties.

Data Protection:

The Framework Member shall act as agent for the Framework Client for the purposes of the Framework Client's functions under the Protected Disclosures Act 2014 and comply with such further obligations as the Framework Client may reasonably require.

The Framework Member shall comply with all requirements of data protection law and such data protection policies and / or guidelines as may be issued by the Minister or the Data Protection Commissioner from time to time including but not limited to (i) the Data Protection Acts 1998 and 2003, as amended; (ii) the General Data Protection Regulation (Regulation (EU) 2016/679 of 27 April 2016) and (iii) all EU data protection requirements and any legislation and regulations implementing same..

Any decisions in relation to section 16 of the Protected Disclosures Act 2014 is a matter for the Framework Client solely.

The Framework Member shall co-operate with the Framework Client in any Impact Assessment carried out by the Client.

The Framework Member must provide the Client, immediately upon request of the Framework Client, with any evidence which the Framework Client may require to demonstrate compliance by the Framework Member of this Protocol and, in so far as the Framework Member is a data processor, to demonstrate compliance with the provisions of clause 7 under the heading of 'Confidentiality' of the Services Contract.

9. Sample Protocol for acting as Confidential Recipient under the Protected Disclosures Act 2014

Where a protected disclosure is made to the Third Party Confidential Recipient authorised by a public body to receive disclosures in accordance with Section 6(2) of the Protected Disclosures Act, the Third Party Recipient shall consider the information and —

a) if he/she is aware of any actual or potential conflict of interest ("Conflict") on the part of a Framework Member (including any employee(s), suppliers agents or Subcontractor) it must be fully disclosed to the relevant Framework Client(s) immediately in writing as soon as the Conflict becomes apparent to the Framework Member. In the event of any Conflict, the Framework Client(s) may invite the Framework Member to propose means by which the Conflict might be removed. The Framework Client(s), in their absolute discretion, will decide on the appropriate course of action.
b) if he/she determines that the disclosure does not amount to relevant information regarding relevant wrongdoing(s) in accordance with Section 5 of the Act, shall inform the person by whom the disclosure was made of this and refer them to other relevant policies of the public body (i.e. Grievance, Dignity at Work), if appropriate.
c) if he/she considers that the matter in the disclosure is such that it is a protected disclosure within the terms of the Act, or is uncertain on the matter, he/she shall make a report referring the relevant information for consideration to the public body or external investigator engaged by the public body, including any such recommendations for the taking of action in relation to the relevant information as the Confidential Recipient may consider appropriate.

Framework Members must anonymise the information obtained and provided in so far as reasonably practical. Where this is not possible, the following must be considered:

In order to comply with section 16 of the Act, where the assessment shows that it may constitute a protected disclosure, the identity of the person making the disclosure must only be revealed to the Framework Client.

Data Protection:

The Framework Member shall act agent for the Framework Client for the purposes of the Framework Client's functions under the Protected Disclosures Act 2014 and comply with such further obligations as the Framework Client may reasonably require.

The Framework Member shall comply with all requirements of data protection law and such data protection policies and / or guidelines as may be issued by the Minister or the Data Protection Commissioner from time to time including but not limited to (i) the Data Protection Acts 1998 and 2003, as amended; (ii) the General Data Protection Regulation (Regulation (EU) 2016/679 of 27 April 2016); and (iii) all EU data protection requirements and any legislation and regulations implementing same.

Any decisions in relation to section 16 of the Protected Disclosures Act 2014 are a matter for the Client solely.

The Framework Member shall co-operate with the Framework Client in any Impact Assessment carried out by the Framework Client.

The Framework Member must provide the Framework Client, immediately upon request of the Framework Client, with any evidence which the Framework Client may require to demonstrate compliance by the Framework Member of this Protocol and, in so far as the Framework Member is a data processor, to demonstrate compliance with the provisions of clause 7 under the heading of 'Confidentiality' of the Services Contract.

Appendix 2: Pricing Schedule

PRICING SCHEDULE NOTES

1. Tenderers must complete the Tender Response C by completing the relevant sections in full for the Lot or Lots they are tendering for and return it with their Tender submissions. Tenderers must not change the format of the Pricing Schedule. Tenderers should read the instructions below carefully before completing the Pricing Schedule.

2. In accordance with the Pricing Schedule, Tenderers must submit Hourly Rates for all Lots Tendered for.

3. The Hourly Rates must be all-inclusive (i.e. including but not being limited to labour, travel, materials, I.T. and/or telephone expenses and all other ancillary costs/expenses), and must be expressed in **Euro only and be exclusive of VAT.**

4. It should be noted that when/if out of normal working hours attendance is required, Framework Clients will pay only up to a maximum of 1.5 times the Hourly Rate (calculated on a pro rata basis as appropriate, for example, where a Framework Client requires Services for 4 hours outside of normal working hours , if the Hourly Rate for the relevant Role is €100, then that Service will be charged at a maximum of €150 for those 4 hours of work (i.e. excluding breaks taken by the resources delivering the Service).

5. The Rates submitted will be the **Maximum Rates a Tenderer will charge for each role for the Term of the Framework**. Tenderers are reminded that the Rates tendered in response to this Competition will be capped for the Term of the Framework Agreement subject to the increase in Rates allowed pursuant to clause 2.10.6 of the RFT**.**

6. When participating in Mini-Competitions, Tenderers may quote a discounted Hourly Rate but may not quote a rate in excess of those submitted for admittance to the Framework (i.e. the Hourly Rates may be decreased during Mini-Competitions but never increased).

7. Failure to submit any Hourly Daily Rate will result in the Tender being eliminated from the Competition for that particular Lot.

Evaluation of Cost (Criterion No. 4)

Scoring Mechanism for Cost Award Criteria

With regard to marking, the lowest price tender in each Lot, will receive the maximum score achievable under this criterion. The maximum score available for Price is 600 marks. The scores of the all-valid tenders will be calculated by using the following formula:

$$\text{Cost Score} = \frac{\text{Lowest Total Cost Submitted under the Framework Lot}}{\text{Total Cost under evaluation under the Framework Lot}} \times \text{Maximum Number of Marks Available (600 Marks)}$$

Example to Demonstrate Scoring: Should the lowest valid tendered total cost excluding VAT be €35,000 and the maximum score available is 600 points, then the cost score for a valid tender with a cost of €37,000 would be as follows:

$$\text{Cost Score (37,000 tender)} = \frac{(600 \times 35{,}000)}{37{,}000} = 568 \text{ points (rounded to nearest decimal point)}$$

Appendix 3: Tenderers' Statement

[Tenderers shall complete and return the following form of Tenderers' Statement printed on the Tenderers' headed notepaper and signed by the Tenderer.]

TENDERERS' STATEMENT

TO: Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation (the "Contracting Authority")

RE: Request for Tenders for the Provision of Services related to the Receipt and Investigation of Protected Disclosures (THR081F)

Having examined your Request for Tenders (the "RFT") including the Instructions to Tenderers, the Selection and Award Criteria, the Requirements and Specifications, and the Terms and Conditions of the Framework Agreement and the Services Contract, we hereby declare the following:

1. We understand the nature and extent of the Services required to be delivered as described in Requirements and Specifications at Appendix 1 to the RFT.
2. We accept all of the Terms and Conditions of:
    a) the RFT;
    b) the Framework Agreement and agree that, if offered appointment to the framework, we will execute the Framework Agreement at Appendix 5 of the RFT and the Confidentiality Agreement at Appendix 7 of the RFT;
    c) the Services Contract and agree if awarded any contract pursuant to the Framework Agreement to execute the Services Contract at Appendix 6 to the RFT.
3. We accept all the Selection and Award Criteria as set out in Part 3 of the RFT.
4. We agree to provide the Services in accordance with the RFT, our Tender, the SRFT and our response to SRFT if awarded any Services Contract pursuant to a Framework Agreement.
5 We agree that, if awarded any contract pursuant to a Framework Agreement that we shall, in the performance of such contract, comply with all applicable obligations in the field of environmental, social and labour law.
6. We confirm that we have complied with all requirements as set out at Part 2 of the RFT.
7. We confirm that all prices quoted in our Tender will remain valid for the period of time commencing from the Tender Deadline specified at paragraph 2.10.3 of the RFT.
8. We shall, if awarded any Services Contract pursuant to a Framework Agreement, have in place on the Effective Date of the Services Contract all insurances (if any) as required by paragraph 2.21.1 of the RFT and as required by the SRFT.

9. We confirm that all Data Subjects whose Personal Data is provided in our Tender have consented to the processing of such Personal Data by us, the Contracting Authority, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of our participation in this Competition or that we otherwise have a legal basis for providing such Personal Data to the Contracting Authority for the purposes of our participation in this Competition and that we will provide evidence of such consent and / or legal basis to the Contracting Authority upon request.

10. We do not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

11. The origin of goods connected to our Tender, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

12. Any subcontractor, supplier or other entity on whose capacity we rely as part of our Tender does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

SIGNED **(Authorised Signatory)**	**Company**
Print name	**Address**
Date	

Appendix 4: Declaration as to Personal Circumstances of Tenderer

Re: Request for Tenders for the Provision of Services related to the Receipt and Investigation of Protected Disclosures (THR081F)

NAME: [Click here and insert name]

ADDRESS: [Click here and insert address]

I, [Click here and insert name of Declarant], of [Click here and insert name of entity] do solemnly and sincerely declare that:

1. I am a [insert role of Declarant] of [Click here and insert name of entity] and am authorized by [Click here and insert name of entity] to make this declaration which relates to a tender ("the Tender") submitted by [Click here and insert name of entity] in response to an RFT dated titled [insert description of competition] published by [insert name of contracting authority] ("the Contracting Authority").

2. Neither [Click here and insert name of entity] nor any person who is a member of the administrative, management or supervisory body of [Click here and insert name of entity] nor any person who has powers of representation, decision or control in [Click here and insert name of entity] has:

   a. ever been the subject of a conviction for participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA.
   b. ever been the subject of a conviction for corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and Article 2(1) of Council Framework Decision 2003/568/JHA as well as corruption as defined in the national law of the Contracting Authority or the law of the state in [Click here and insert name of entity] is established.
   c. ever been the subject of a conviction for fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests.
   d. ever been the subject of a conviction for terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA respectively, or for inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision.
   e. ever been the subject of a conviction for money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council.
   f. ever been the subject of a conviction for child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council.

3. [Click here and insert name of entity]:
   a. is not in breach and has not breached its obligations relating to the payment of taxes or social security contributions.
   b. has carried out the preparation of the Tender independently.

4. [Click here and insert name of entity]:
    a. has, in the performance of all public contracts, complied with applicable obligations in the field of environmental social and labour law that apply at the place where the works are carried out or the services provided, that have been established by EU law, national law, collective agreements or by international, environmental, social and labour law listed in Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016).
    b. is not bankrupt or the subject of insolvency or winding-up proceedings, its assets are not being administered by a liquidator or by the court, it is not in an arrangement with creditors, its business activities are not suspended nor is it in any analogous situation arising from a similar procedure under national laws and regulations.
    c. is not guilty of grave professional misconduct.
    d. has not entered into agreements with other economic operators aimed at distorting competition.
    e. is not aware of any conflict of interest due to its participation in the Competition;
    f. has not had any prior involvement in the preparation of the Competition;
    g. has not shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions.
    h. is not guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the Selection Criteria for this Competition and did not withhold such information and did not fail or is not able to submit supporting documents in respect of this Competition as required under Regulation 59 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) .
    i. has not undertaken to unduly influence the decision-making process of the Contracting Authority in respect of the Competition or obtain confidential information that may confer upon it undue advantages in respect of the Competition; or negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.

5. [Click here and insert name of entity] does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same);

6. The origin of goods connected to the Tender, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same);

7. Any subcontractor, supplier or other entity on whose capacity [Click here and insert name of entity] relies as part of the Tender does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

I understand and acknowledge that the provision of inaccurate or misleading information in this declaration may lead to my business/firm/company/partnership being excluded from participation in this or future tenders, and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1938. This declaration is made for the benefit of the Contracting Authority.

____

Signature of Declarant

Declared before me by ____________________________________ who is personally known to me

(or who is identified to me by _______________________________who is personally known to me) or*

at _____________________________ this ___________ day of _______________ 20__

____

(signed)
Practising Solicitor/Commissioner for Oaths

Please include such other form of identification used to identify the Declarant as permitted by the Statutory Declarations Act, 1938 (as amended)

Appendix 5: Framework Agreement

Framework Agreement for the provision of Services related to the Receipt and Investigation of Protected Disclosures (THR081F)

THIS FRAMEWORK AGREEMENT IS MADE ON THE [DATE E.G. 2ND] DAY OF [MONTH] 20 [YEAR]:

("the Framework Agreement")

BETWEEN:

The Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation whose offices are located at Government Buildings, Upper Merrion Street , D02 R583 ("the Contracting Authority"); and

[Insert name of Framework Member] whose principal place of business is at [Address] ("the Framework Member")

(each a "Party" and together the "Parties")

WHEREAS:

1. By Request for Tenders advertised in the supplement to the Official Journal of the European Union, OJEU Notice Number ___________ of _____________ and entitled "____________________" ("the RFT") the Contracting Authority invited economic operators ("Tenderers") to participate in a framework agreement for the provision of the services described in Appendix 1 of the RFT (the "Services"). References to the RFT shall include any clarifications in relation to the RFT issued by the Contracting Authority via the messaging facility on www.etenders.gov.ie between [insert date] and [insert date] (the "RFT Clarifications"). The RFT (including the RFT Clarifications) is hereby incorporated by reference into this Framework Agreement.
2. The Framework Member submitted a response to the RFT dated [insert date of tender] ("the Submission"). References to the Submission shall include any clarifications issued in writing by the Framework Member to the Contracting Authority between [insert date] and [insert date] (the "Submission Clarifications"). The Submission (including the Submission Clarifications) is hereby incorporated by reference into this Framework Agreement.
3. The Framework Member was appointed to the framework as a result of the evaluation of its Submission in accordance with the RFT.

IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

"Commencement Date" means ____________________;

"Contract" means a Services Contract which is awarded in accordance with this Framework Agreement

"Services Contract" means the template contract attached at Appendix 6 to the RFT;

"Framework Client" means any party identified in Part 1, paragraph 1.4 of the RFT who may award Contracts pursuant to this Framework Agreement;

"Framework Term" means the period set out in Clause 2.5 of this Framework Agreement;

"Month" means a calendar month;

"Prime Contractor" has the meaning set out in Part 1, paragraph 2.5 of the RFT;

"Subcontractor" has the meaning set out in Part 1, paragraph 2.5 of the RFT;

Unless otherwise specified herein, a defined term used in this Framework Agreement shall have the same meaning as assigned to it in the RFT.

1.1 To the extent that any specific provision in a Contract is inconsistent or conflicts with any term or condition of this Framework Agreement, the relevant provision of the Contract shall prevail.

1.2 Headings are included for ease of reference only and shall not affect the construction of this Framework Agreement.

1.3 Unless the context requires otherwise, words in the singular may include the plural and vice versa.

1.4 References to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise.

2. APPOINTMENT OF FRAMEWORK MEMBER, SCOPE AND TERM OF THE FRAMEWORK AGREEMENT

2.1 In consideration of payment by the Contracting Authority of the sum of €2.00, the receipt of which is hereby acknowledged by the Framework Member, the Framework Member accepts its appointment under the provisions of this Framework Agreement.

2.2 This Framework Agreement does not entitle the Framework Member to be consulted in respect of, or awarded any Contract during the Framework Term. The Framework Client(s) may at its or their sole discretion choose not to enter into any Contract pursuant to this Framework Agreement.

2.3 The Contracting Authority does not give any guarantee and/or warrant the actual value of any Services and/or number of Contracts (if any) which may be procured in connection with this Framework Agreement and the Parties acknowledge that the Framework Client(s) are not bound to enter into any Contract or other arrangement with the Framework Member as a result of entering into this Framework Agreement. Without prejudice to the foregoing the Framework Member hereby acknowledges that the Contracting Authority intends (but shall be under no obligation) to promote the Framework Agreement and to encourage use of the Framework Agreement by the Framework Client(s) and the Framework Member may be required to provide reasonable assistance in this respect.

2.4 This Framework Agreement does not confer exclusivity on any Framework Member. The Framework Clients may at their sole discretion opt to carry out a separate contract award procedure for contracts falling within the scope of this Framework Agreement. In this event, the Framework Client(s) shall observe all obligations at law and shall not afford any advantage to the Framework Member.

2.5 This Framework Agreement shall take effect on the Commencement Date and expire [insert term of Framework] thereafter ("the Framework Term") unless terminated earlier in accordance with this Framework Agreement.

2.6 Not used

2.7 The Framework Member shall be an independent Contractor and not be deemed an employee of the Contracting Authority or the Framework Client. This Framework Agreement shall not be deemed or construed to create a joint venture, partnership and/or fiduciary or other relationship between the Framework Member and the Contracting Authority/Framework Client. The officers, employees or agents of the Framework Member are not and shall not hold themselves to be (and shall not be held out by the Framework Member as being) servants, employees or agents of the Contracting Authority/Framework Client for any purposes whatsoever.

2.8 The Contracting Authority would refer the Framework Member in particular to the provisions of Regulation EU 2022/1031 on the access of third country economic operators, goods and services to the Union's public procurement ad concession markets and procedures supporting negotiations on access of Union economic operators, goods and services to the public procurement and concession markets of third countries (International Procurement Instrument – IPI), and to its obligation to comply herewith.

3. FRAMEWORK AGREEMENT MANAGEMENT PROVISIONS

3.1 The Framework Member hereby agrees and undertakes to comply with the Framework Agreement management provisions as set out in Annex 1 to this Framework Agreement or as may be notified in writing by the Contracting Authority to the Framework Member from time to time.

4. SERVICES CONTRACT

4.1 This Framework Agreement relates to the provision of the Services.

4.2 Where the Framework Member is awarded a Contract further to the procedure set out in accordance with clauses 5 and 6, it shall provide the Services to the Framework Client(s) in accordance with the Services Contract. Subject to the provisions of this Framework Agreement and to the satisfaction of any pre-conditions to the award of a Services Contract, the successful Framework Member shall be required to enter into the Services Contract with the Framework Client.

5. PROCEDURE FOR AWARD OF CONTRACTS

5.1 There are two procedures for the award of Services Contracts under this Framework Agreement (i.e. dual drawdown mechanism), as set out in Clause 1.3 of Part 1 of the RFT and These procedures are set out below:

5.1.1 Direct Award by Cascade– Lots 1, 2 and 3.
Cascade will be used for once off investigations and reviews under Lot 1, all standard investigations and reviews under Lot 2 and all third-party confidential recipient services under Lot 3. The Steps involved in a cascade approach for Services for once-off Cases/disclosures (Lot 1, 2 & Lot 3) are set out under Section 5.2.

5.1.2 Award by Mini-Competition
Applicable to Lot 1 only, and only for:

- Service Contracts with an estimated value above €50,000, and
- Terms of 6 months or more (with possible extensions up to a maximum of 4 years).

5.1.3 On any occasion that a Framework Client proposes to award a Contract under this Framework Agreement by mini competition they will issue a Supplementary Request for Tenders (“SRFT”) to all Framework Members in accordance with the following procedure (a “Mini-Competition”):

5.1.4 The SRFT shall set out:

(a) the scope and term of the Services required including (but not limited to);

(i) identifying the Role required to deliver the specific needs of the Framework Client.

(ii) identifying the experience levels required (i.e. Junior, Intermediate or Senior).

(iii) specifying how the Services are to be provided (i.e. set number of days/hours at set times, or on a draw down basis).

(iv) the maximum number of days which may be drawn down over the Term of the Services Contract.

(v) specifying whether or not resources are to be managed by the Framework Client or the Framework Member.

(vi) specifying where the work is to be carried out i.e. on-site, hybrid or remote.

(vii) specifying the hours of attendance.

(b) the deadline (date and time) for the receipt of responses to the SRFT (each a "Response") taking into account the complexity of the Services Contract and the time needed to prepare an appropriate Response. Responses received after the deadline will not be considered;

(c) the types and levels of insurance required for the Services Contract;

(d) whether presentation of proposals will be required or otherwise;

(e) Any additional conditions (if any) that will apply to the Contract in addition to the terms and conditions of the Services Contract.

5.1.5 All Responses to the SRFT must be submitted via the eTenders facility only. Responses received in any other manner including e-mail or hardcopy will not be considered.

5.1.6 Any clarifications issued by the Contracting Authority or the Framework Client, as applicable, in relation to a SRFT will be communicated via the eTenders facility only.

5.1.7 The Framework Client may award a Contract following an evaluation of the Responses based on the Award Criteria set out in Clause 6.1 below.

5.1.8 The Contracting Authority and the Framework Client reserve the right to issue or seek written clarifications.

5.2 The Steps involved in a <u>cascade approach</u> for Services (Lot 1, Lot 2 & Lot 3):

5.2.1 When awarding Services Contracts using this mechanism, the Framework Client shall award a Services Contract to the first ranked Framework Member unless any of the following circumstances (in no particular order) apply, whereby that Framework Member:

(i) confirms that they do not have capacity to undertake the work; or

(ii) cannot respond within the required timescales as detailed in the specification of requirements; or

(iii) where in the view of the Framework Client or Framework Member an actual or perceived conflict of interest exists duly explained to the other party. For the avoidance of doubt there is no obligation on the Framework Client to accept any explanation from a Framework Member, i.e. it is at the sole discretion of the Framework Client to determine if a conflict exists.

- If any of the criteria set out above are applicable, then the second ranked Framework Member should be appointed. If the second ranked Framework Member cannot meet the need (by reason of issues detailed above), the next ranked Framework Member should be approached and so on up to the last ranked Framework Member on the relevant Lot.

5.2.2 On each occasion that a Framework Client proposes to activate Services under this Framework Agreement, the Framework Client shall serve a Service Request Form with Part A completed (by electronic means) on the Framework Member in accordance with the procedure set out in this section. The Service Request Form is set out at Schedule F of the Services Contract (Appendix 6) of the RFT.

5.2.3 The Service Request Form shall be issued electronically to the first ranked Framework Member, for the relevant Lot. The sending of a Service Request Form to the first ranked Framework Member shall be deemed to be an offer by the Framework Client to the first ranked Framework Member to purchase the Services from the first Framework Member on the terms stipulated in the RFT and in the Submission.

When received by the first ranked Framework Member, the Framework Member shall consider the Service Request Form, in terms of the requirement, their current available capacity, any conflicts of interest and any restrictions to the availability of the requested area of specialisation.

5.2.4 The Framework Member shall complete Part B of the Service Request Form and return the form to the Client, by electronic means within 2 working days.

5.2.5 Any clarifications in relation to the Service Request Form must be submitted in writing by e-mail.

5.2.6 If the Framework Member confirms by reply that it has available capacity to carry out the Services and that it would be willing to enter into a Contract, the OGP will review the Service Request Form, verify the information provided and then the Framework Client, may at its discretion proceed to award the Services Contract to the Framework Member.

5.2.7 If the Framework Client proceeds to award the Services Contract to the Framework Member they will complete the Services Contract template and issue it to the Framework Member to countersign. The Services Contract shall be in the form set out in this RFT.

5.2.8 The first ranked Framework Member shall complete the Services Contract within 5 working days and return it to the Framework Client. The receipt by the Framework Client of an executed Services Contract shall constitute acceptance by the Framework Member of the Framework Client's offer and bring into being the Contract. The terms of the Contract shall be the Services Contract.

The additions a), b) and c) set out below will be made to the Services Contract before been signed by the Framework Client and the Framework Member: a) The description of the services in the Services Contract will be inserted in Specification of Requirements section (to be inserted by the Framework Client)

b) The Charges submitted by the Framework Member in its Response to the RFT will be included in Schedule C (to be inserted by the Framework Member and verified by the Client). Tenderers should note that the hourly rates submitted in their tender response for appointment to this Framework Agreement will apply to all Services drawn down by the Cascade mechanism.

c) The Data Protection information in relation to Processing, Personal Data and Data Subjects under the Framework. (to be inserted by the Framework Client and the Framework Member)

5.2.9 If the Framework Member does not confirm by the stated deadline that it would be willing to enter into a Services Contract to perform the Services which are the subject of the Service Request Form, or if the Framework Member does not wish to enter into a Services Contract, or have available capacity, the Framework Client may issue a Service Request Form to the next highest ranked

Framework Member, within the relevant Lot and with the required Specialisation, and the process is repeated until the Services Contract is awarded by the Framework Client.

5.2.10 For the purposes of the Framework Agreement, available capacity means capacity by the Framework Member to carry out the Services.

5.2.11 The Framework Client shall not be responsible for any costs incurred by the Framework Member in the preparation of a Response to a Service Request.

5.2.12 No enforceable commitment of any kind, contractual or otherwise will exist unless and until a Services Contract has been executed by both the Framework Client and the Framework Member, in accordance with the process set out herewith.

5.2.13 The Framework Client may cancel a Services Contract at any time prior to it being returned by a Framework Member and a Contract coming into being. Any notification of preferred bidder status by a Framework Client shall not give rise to any enforceable rights by the Framework Member.

6. AWARD CRITERIA

6.1 The award criteria for Mini-Competitions shall be:

Award Criteria	Weighting (range)
1. Quality of the Tenderers Methodology to Framework Client's Protected Disclosures Service requirements.	0% and 70%
2. Overall Quality of the Tenderers Contract Management Proposal	0% and 70%
3. Technical Merit of the Proposed Resources	0% and 70%
4. Quality of Proposals on the incorporation of Environmentally Sustainable into the delivery of the Services	0% and 20%
5. Total Cost (Cost per hour for Cases)	30% – 100%

*Environmental Considerations must be included in line with Circular 20/2019: Promoting the use of Environmental and Social Considerations in Public Procurement

Framework Clients may activate one or more of the Award Criteria above and assign marks only within the ranges set out as appropriate to the specific requirements of their Mini-Competition. The Award Criteria and associated marks will be set out in the SRFT. The Contracting Authority and/or the Framework Client may apply further Sub-Criteria under the Award Criteria set out above. Any such Sub-Criteria will be detailed in the SRFT.

Tenderers should note that at SRFT stage, the weightings assigned to the Award Criteria and the specific Award Criteria to be applied (including any Sub-Award Criteria) from the above Criteria will be determined having regard to the specific requirements of the Services sought.

6.2 No enforceable commitment of any kind, contractual or otherwise will exist unless and until a formal written Contract has been executed by or on behalf of the Framework Client.

6.3 The Contracting Authority or the Framework Client may cancel a Mini-Competition at any time prior to a Contract being executed by the Framework Client. Any notification of preferred bidder status by the Contracting Authority or a Framework Client shall not give rise to any enforceable rights by the Framework Member.

6.4 The Framework Client will require the Framework Member to whom it has decided to award the Contract to supply up-to-date evidence as set out in paragraph 3.3.2(a) of the RFT. Where the Framework Member cannot provide up-to-date evidence to demonstrate that each entity concerned meets the Selection Criteria and the compliance requirements specified at paragraph 3.1(b) and (c) of the RFT then the Contracting Authority may proceed to offer the Contract to the next highest-ranked Tenderer.

7. APPLICABLE LAW AND JURISDICTION

7.1 This Framework Agreement and any Contract(s) awarded under it will be subject to the laws of Ireland and to the exclusive jurisdiction of the Irish courts.

8. COMPLIANCE WITH LAWS

8.1 The Framework Member shall comply with all applicable laws relating to the discharge of its obligations under this Framework Agreement and any and all Contract(s).

9. TAX CLEARANCE

9.1 The Framework Member shall comply with all applicable EU and domestic taxation laws and requirements.

9.2 Prior to the award of any Contract, the Framework Member shall promptly supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by the Contracting Authority or any Framework Client. By supplying these numbers the Framework Member acknowledges and agrees that the Contracting Authority has the permission of the successful Tenderer to verify its tax cleared position online. Where relevant, the provisions of this paragraph 9.2 apply equally to subcontractors.

10. ANTI COMPETITIVE CONDUCT

10.1 Without prejudice to the generality of clause 8.1, the Framework Member shall comply with the Competition Act 2002 (as amended, the “2002 Act”). The 2002 Act makes it a criminal offence for tenderers to collude on prices or terms in a public procurement competition.

11. CONFLICTS OF INTEREST

11.1 Any actual or potential conflict of interest on the part of a Framework Member (including for the purposes of this clause 11 any employee(s), supplier(s) agents or Subcontractor(s)) (a “Conflict”) must be fully disclosed to the Contracting Authority and any relevant Framework Client(s) immediately in writing as soon as the Conflict becomes apparent to the Framework Member. In the event of any Conflict, the Contracting Authority and / or the Framework Client(s) may invite the Framework Member to propose means by which the Conflict might be removed. The Contracting Authority and / or the Framework Client(s) will, in their absolute discretion, decide on the appropriate course of action.

12. REGISTERABLE INTEREST

12.1 Any registerable interest involving a Framework Member and the Contracting Authority, any Framework Client, member of the Government, member of the Oireachtas (Parliament), or employees of the Contracting Authorities and/or divisions/agencies under the aegis of the relevant Ministers, and their relatives, must be fully disclosed in any Response. In the event of this information only coming to the notice of a Framework Member after the submission of a Response, it must be communicated to the Contracting Authority and / or Framework Client(s) immediately upon such information becoming known. The terms 'registerable interest' and 'relative' shall be interpreted as per Section 2 of the Ethics in Public Office Act 1995.

13. CONFIDENTIALITY

13.1 All communications between the Contracting Authority or any Framework Client(s) and the Framework Member must be treated as being strictly confidential. The Framework Member undertakes to comply with all reasonable directions of the Contracting Authority and any Framework Client with regard to the use and application of all and any confidential information and shall comply with the Confidentiality Agreement(s) executed by the Framework Member pursuant to clause 13.2 below. All of the Framework Member's employees and personnel, including subcontractors and their employees and personnel, who provide the Services may be required, at the absolute discretion of the Contracting Authority and/or the Framework Client(s), to sign a confidentiality agreement in a format as determined by the Contracting Authority and/or the Framework Client(s).

13.2 The Framework Member shall execute a Confidentiality Agreement in the form set out at Appendix 7 to the RFT.

13.3 No publicity regarding this Framework Agreement or any Mini Competition or Contract pursuant to this Framework Agreement is permitted unless and until the Contracting Authority and any relevant Framework Client(s) has given their prior written consent to the relevant communication.

14. NOTICES

14.1 Any notice or other written communication to be given under this Framework Agreement shall either be delivered personally or sent by registered post or email. The Parties will from time to time agree primary and alternative contact persons and details for the purposes of this clause 14.

14.2 All notices shall be deemed to have been served as follows:

1. if personally delivered, at the time of delivery;
2. if posted by registered post, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities (and not returned undelivered); and
3. if communicated by email, on the next calendar day following transmission.

15. GIFTS

15.1 The Framework Member shall not offer, give or agree to give to any person holding an office in the Contracting Authority or any Framework Client, any gift or consideration of any kind as an inducement or reward in relation to the obtaining or execution of any Contract. In the event of any breach of this clause 15.1, the Contracting Authority and the Framework Client(s) may terminate this Framework Agreement and any existing Contract(s) respectively and recover from the Framework Member any loss resulting from any such termination.

16. COSTS AND EXPENSES OF FRAMEWORK AGREEMENT

16.1 All costs and expenses incurred by the Framework Member relating to its participation in this Framework Agreement and in any Mini-Competition shall be borne solely by the Framework Member. Neither the Contracting Authority nor any Framework Client shall have any responsibility or liability for any costs or expenses of whatsoever nature incurred by the Framework Member in this regard.

17. TERMINATION

17. 1 This Framework Agreement may be terminated by the Contracting Authority, without liability for compensation or damages, by serving **1 months** written notice to the Framework Member.

17.2 The Contracting Authority shall have the right (in addition to its rights under clause 17.1 and any other rights which it has at law) to terminate this Framework Agreement immediately and without liability for compensation or damages on the happening of any of the following events:

17.2.1 if the Framework Member commits any serious breach or a series of breaches of any provision of this Framework Agreement and fails to remedy such breach(es) to the reasonable satisfaction of the Contracting Authority, (if the breach(es) are capable of remedy), within 30 days after receipt of a request in writing from the Contracting Authority. Without prejudice to the generality of the foregoing, a failure to comply with the Framework Agreement management provisions as set out in Annex 1 to this Framework Agreement shall be deemed to be a serious breach of this Framework Agreement;

17.2.2 if the Framework Member commits any serious breach or a series of breaches of any Contract awarded pursuant to this Framework Agreement and fails to remedy such breach(es) to the reasonable satisfaction of the Contracting Authority and the Framework Client(s), within 30 days after a receipt of a request in writing from the Contracting Authority or any Framework Client.

17.2.3 if the Framework Member becomes insolvent, becomes bankrupt, is wound up, enters into examinership, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect;

17.2.4 in circumstances where the Contracting Authority becomes aware that any of the exclusion grounds listed in Regulation 57 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) apply to the Framework Member;

17.2.5 in circumstances where the Contracting Authority becomes aware of any conflict of interest on the part of the Framework Member which cannot, in the opinion of the Contracting Authority, be removed by other means; and

17.2.6 in circumstances where the Contracting Authority becomes aware of any registrable interest on the part of the Framework Member.

17.3 Subject to clause 17.2.2, the termination of a Contract awarded under this Framework Agreement does not affect the validity of this Framework Agreement.

17.4 Termination of this Framework Agreement shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any provision of this Framework Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

17.5 The Contracting Authority shall have the right, in addition to any other rights which it has at law, to terminate this Agreement immediately and without liability for compensation or damages in circumstances where the Contracting Authority becomes aware:

17.5.1 that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Framework Member;

17.5.2 that the Framework Member (on its own or resulting from its subcontractors, suppliers or entities on which it relies) comes within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

18. FREEDOM OF INFORMATION

18.1 The Framework Member acknowledges that the Contracting Authority is subject to the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014. Information furnished to the Contracting Authority by the Framework Member may be released pursuant to the Contracting Authority's statutory obligations. If the Framework Member considers that any of the information supplied by it to the Contracting Authority under this Framework Agreement or any Contract should not be disclosed because of its sensitivity it should, when providing the information, indicate this and specify the reason for its sensitivity. The Contracting Authority will consult the Framework Member about this sensitive information before making a decision on any request received under the above legislation. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

19. DISPUTE RESOLUTION

19.1 In the event of any dispute arising out of or relating to this Agreement (the "Dispute"), the Parties shall first seek settlement of the Dispute as set out below.

19.2 The Dispute shall be referred as soon as practicable to [insert Contractor senior contact] within the Contractor and to [insert Contracting Authority contact] within the Contracting Authority respectively.

19.3 If the Dispute has not been resolved within fifteen (15) Business Days (or such longer period as may be agreed in writing by the Parties) of being referred to the nominated representatives, then either Party may refer the Dispute to an independent mediator, the identity of whom shall be agreed in advance by the Parties.

19.4 If the Parties are unable to agree on a mediator or if the mediator agreed upon is unable or unwilling to act, either Party may within twenty-one (21) days from the date of the proposal to appoint a Mediator or within twenty-one (21) days of notice to either Party that the mediator is unable to act, apply to Mediators' Institute of Ireland to appoint a mediator.

19.5 Any submissions made to and discussions involving the mediator, of whatever nature, shall be treated in strict confidence and without prejudice to the rights and/or liabilities of the Parties in any legal proceedings and, for the avoidance of doubt, are agreed to be without prejudice and legally privileged. The Parties shall make written submissions to the mediator within ten (10) Business Days of his/her appointment.

19.6 The Parties shall share equally the cost of the mediator. The costs of all experts and any other third parties who, at the request of any Party, shall have been instructed in the mediation, shall be for the sole account of, and shall be discharged by that Party.

19.7 For the avoidance of doubt, the obligations of the Parties under this Agreement shall not cease, or be suspended or delayed by the reference of a dispute to mediation. The Contractor shall comply fully with the requirements of the Agreement at all times.

19.8 If, and to the extent that, any Dispute has not been settled pursuant to the mediation within 30 days of the commencement of the mediation, either party may apply to the Irish courts at any time thereafter.

IN WITNESS WHEREOF this Framework Agreement has been executed by the Parties hereto as of the date first above written.

SIGNED by _____________, being an Officer so authorised by the **CONTRACTING AUTHORITY** in the presence of: ______________________ **Witness**	**SIGNED** by _____________, being an Officer so authorised by the **FRAMEWORK MEMBER** in the presence of: ______________________ **Witness**

ANNEX 1 TO THE FRAMEWORK AGREEMENT

FRAMEWORK AGREEMENT MANAGEMENT PROVISIONS

Investigator/Confidential Recipient: Framework Agreement

Any and all Investigators and Confidential Recipients and the Key Account Manager proposed for this Framework Agreement must be acceptable to the Contracting Authority in its sole discretion and shall be deemed "Investigator/Confidential Recipient" for the purpose of the Framework Agreement. No change shall be made to the identity of the Investigator/Confidential Recipient without the prior written consent of the Contracting Authority.

Framework Clients may require gender balance of Investigators and will have the option to choose male/female personnel or both. Tenderers must confirm their capacity to provide this option. In Cases where more than one investigator is requested the lead investigator must have the requisite experience. Requisite experience will be defined as a related 3rd level qualification (where required) and relevant expertise demonstrated within Case studies.

Key Account Manager

The Framework Member's Key Account Manager must provide the source of communication between the Contracting Authority and the Supplier for this Framework. No change shall be made to the identity of the Key Account Manager without the prior written consent of the Contracting Authority.

Reporting

The following reports will be required under this Framework Agreement:

Monthly Reporting to the Contracting Authority:

i. Number of framework clients and number of contracts awarded thereunder

ii. Financial data and invoiced amount

iii. Any additional cost if applicable

iv. The number of Cases undertaken or Disclosures received (including those that were not classified as Protected Disclosures under the Act)

v. The number of investigator/recipient hours for each Case undertaken

vi. The stage of the process at which each Case is at

vii. The cost to date charged for each Case undertaken under the Framework Agreement (Lots 1 and 2)

viii. The cost to date charged for each receipt of disclosure and initial investigation under the Framework Agreement (Lot 3)

ix. Details of any relevant matters or issues arising.

Annual Report

The Framework Member must also prepare an Annual report to present aggregated results on a national level and submit this report to the Contracting Authority.

Contract Review Meetings

The Contracting Authority may invite Framework Members to attend contract review meetings. Other attendees may be invited depending on the subject matter being proposed for discussion. Specifically, but not exclusively, contract review meetings will seek to:

i. Review performance by the Framework Member

ii. Identify operational measures required of the Framework Member by the Contracting Authority/Framework Client to improve the actual performance of the Framework Member

iii. Review any results, reports or findings of any audits undertaken and confirm that the service delivery complies with the Framework Agreement

iv. Modify and/or adjust any corrective action previously introduced, as appropriate

v. Identify and discuss relevant issues between the parties to the Framework Agreement.

Appendix 6: Services Contract

[Insert name of Framework Client]

and

[Insert successful Framework Member’s full legal name]

AGREEMENT

Relating to the Provision of Services pursuant to

Request for Tenders for the Establishment of a Multi Supplier Framework for the provision of Services related to the Receipt and Investigation of Protected Disclosures (THR081F)

THIS AGREEMENT IS MADE ON THE [DATE E.G. 2ND] DAY [MONTH] OF 20[YEAR] ("EFFECTIVE DATE") BETWEEN:

[Insert name of Framework Client] of [address] ("the Client");

and

[Framework Member's full legal name], of [address:] ("the Contractor")

(each a "Party" and together "the Parties").

WHEREAS:

A. By Request for Tender entitled "____________________" advertised in the supplement to the Official Journal of the European Union, OJEU Notice Number __________ of ____________ ("the RFT") the Contracting Authority invited economic operators ("Tenderers") to participate in a framework agreement for the provision of the services described in Appendix 1 of the RFT (the "Services"). References to the RFT shall include any clarifications issued by the Contracting Authority via the messaging facility on www.etenders.gov.ie between [insert date] and [insert date] (the "RFT Clarifications"). The RFT (including the RFT Clarifications) is hereby incorporated by reference into this Agreement.

B. The Contractor submitted a response to the RFT dated [insert date of tender] ("the Submission"). References to the Submission shall include any clarifications issued by the Contractor in writing to the Contracting Authority between [insert date] and [insert date] (the "Submission Clarifications"). The Submission (including the Submission Clarifications) is hereby incorporated by reference into this Agreement.

C. The Contracting Authority and the Contractor entered into a framework agreement on [insert date of Framework Agreement] (the "Framework Agreement"). The Framework Agreement is incorporated by reference into this Agreement.

D. In accordance with the Framework Agreement, by way of Supplementary Request for Tenders dated [insert date of SRFT] ("the SRFT"), the Client invited responses from Framework Members for the provision of Services. References to the SRFT shall include any clarifications issued by the Client via the messaging facility on www.etenders.gov.ie between [insert date] and [insert date] (the "SRFT Clarifications"). The SRFT (including the SRFT Clarifications) is hereby incorporated by reference into this Agreement.

E. The Contractor submitted a response to the SRFT dated the [Date of Response] (the "Response"). References to the Response shall include any clarifications issued by the Contractor in writing to the Client between [insert date] and [insert date] (the "Response Clarifications"). The Response (including the Response Clarifications) is hereby incorporated by reference into this Agreement.

IT IS HEREBY AGREED AS FOLLOWS:

1. This Agreement ("Agreement") consists of the following documents, and in the case of conflict of wording, in the following order of priority:

i. This Agreement and the Schedules attached hereto;

ii The Framework Agreement;

iii. The RFT;

iv. The SRFT;

v. The Submission;

vi. The Response.

2. The Contractor agrees to provide the Services described in Schedule B (the "Services") to the Client in accordance with this Agreement. Schedule B details the nature, quantity, quality, time of delivery, key personnel and functional specifications of the Services in accordance with the RFT, the SRFT, the Submission and the Response ("the Specification").

3. Subject to the terms and conditions of this Agreement, the Client agrees to pay to the Contractor the charges as stipulated in Schedule C ("the Charges"). The Charges are exclusive of VAT which shall be due at the rate applicable on the date of the VAT invoice.

4. For the purposes of this Agreement, the Client's Contact is [insert contact name] of [insert contact address]; the Contractor's Contact is [Contractor contact name: to be completed on signing] of [Contractor contact address: to be completed on signing].

5. This Agreement shall take effect on the date of this Agreement ("the Effective Date") and shall expire on [insert date], unless it is otherwise terminated in accordance with the provisions of this Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties ("the Term").

Delete and replace with "Not Used" if not applicable:

The Client reserves the right to extend the Term for a period or periods of up to [Insert number] months with a maximum of [Insert number] such extensions permitted subject to its obligations at law.

6. Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the RFT.

7. Headings are included for ease of reference only and shall not affect the construction of this Agreement.

8. Unless the context requires otherwise, words in the singular may include the plural and vice versa.

9. References to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise.

SIGNED for and on behalf of the Client ____________________________ (being a duly authorised officer)	SIGNED for and on behalf of the Contractor ____________________________
Witness	Witness

Schedule A: Terms and Conditions

1. CONTRACTOR'S OBLIGATIONS

A. The Contractor undertakes to act with due care, skill and diligence in the provision of the Services and generally in the carrying out of its obligations under this Agreement and in the appointment, monitoring and retention of its agents and subcontractors. The Contractor shall require its agents and subcontractors to exercise due care, skill and diligence in the provision of the Services and generally in the carrying out of obligations allocated by the Contractor to its agents and subcontractors under this Agreement.

B. In consideration of the payment of the Charges and subject to clause 3 the Contractor shall:

1. provide the Services in accordance with the Specification, the RFT, the Client's directions and the terms of this Agreement;

2. comply with and implement any policies, guidelines and/or any project governance protocols issued by the Client from time to time and notified to the Contractor in writing;

3. comply with all local security and health and safety arrangements as notified to it by the Client; and

4. provide the Services in accordance with good industry practice and comply with all applicable laws including but not limited to all obligations in the field of environmental, social and labour law that apply at the place where the Services are provided, that have been established by EU law, national law, collective agreements and by international, environmental, social and labour law listed in Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the "Regulations") . The Contractor shall be responsible for compliance with all statutory requirements of an employer and without prejudice to the generality of the foregoing shall be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all personnel retained for the purposes of complying with this Agreement.

C. The Contractor is deemed to be the prime contractor under this Agreement and the Contractor assumes full responsibility for the discharge of all obligations under this Agreement and shall assume all the duties, responsibilities and obligations associated with the position of prime contractor. The Contractor as prime contractor under the Submission hereby assumes liability for its subcontractors and shall ensure that its subcontractors shall comply in all respects with the relevant terms of this Agreement, including but not limited to clause 1B(4), to the extent that it or they are retained by the Contractor. Subject to clause 14, the Contractor shall notify the Client as soon as possible of any changes to the name, contact details and legal representatives of its subcontractors.

D. Without prejudice to clause 1C, where the Client becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to any Subcontractor, the Client reserves the right to require the Contractor to immediately replace such Subcontractor and the Contractor shall comply with such requirement. The Contractor shall include in every sub-contract a right for the Contractor to terminate the sub-contract where any of the exclusion grounds apply to the Subcontractor and a requirement that the Subcontractor, in turn, includes a provision having the same effect in any sub-contract which it awards.

E. During this Agreement the Contractor shall be an independent contractor and not the employee of the Client. Neither Party shall have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, and/or fiduciary or other relationship between the Parties for any purpose. The officers, employees or agents of the Contractor are not and shall not hold themselves out to be (and shall not be held out by the Contractor as being) servants or agents of the Client for any purposes whatsoever.

F. The Client acknowledges that the Contractor may from time to time be dependent on the Client to facilitate the Contractor in the carrying out of its duties under this Agreement. The Client agrees to use its reasonable endeavours to so facilitate the Contractor within the timescales and in the manner agreed by it in writing in accordance with clause 10.

G. The Contractor agrees that any information relating to this Agreement and / or the performance of this Agreement may be passed by the Client to the Office of Government Procurement ("OGP") and that the OGP may use this information in the analysis and reporting of spend data including the preparation and publishing of reports.

H. The Contractor shall comply with all applicable obligations arising pursuant to the European Communities (Protection of Employees' Rights on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003) and Council Directive 2001/23/EC (together the "TUPE Regulations") and failure to so comply shall constitute a serious breach of this Agreement. The Contractor shall indemnify, save harmless and keep the Client indemnified from and against any claim arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligation under the said TUPE Regulations.

I. In case of public procurement procedures which are subject to an IPI measure as well as in the case of contracts awarded based on a framework agreement, where the estimated value of those contracts is equal to or above the values set out in Article 4 of Directive 2014/24 EU and where those framework agreements are subject to an IPI measure within the meaning of Regulation (EU) 2022/1031, the Contractor shall comply with the following obligations:

i. not to subcontract more than 50% of the total value of the contract to economic operators originating in a third country which is subject to an IPI measure;

ii. for contracts whose subject matter covers the supply of goods, to ensure for the duration of the contract that goods or services supplied or provided in the execution of the contract and originating in the third country which is subject to the IPI measure represent no more than 50% of the total value of the contract, irrespective of whether such goods or services are supplied or provided directly by the successful tenderer or by a subcontractor;

iii. to provide, upon request, adequate evidence corresponding to point (i) or (ii) above;

iv. to pay to a proportionate charge, in the event of non-observance of the obligations referred to a point (i) or (ii) above, of between 10% and 30% of the total value of the contract.

2. KEY PERSONNEL

The Contractor undertakes and acknowledges that it is responsible for ensuring that all key personnel as specified in the Submission ("Key Personnel"), assigned by it to provide the Services shall be available for the Term of this Agreement. The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services to the Client. In the event that any of the Key Personnel assigned by the Contractor to provide the Services under this Agreement becomes unable to provide the Services for whatever reason then, the Contractor acknowledges and undertakes that it shall immediately notify the Client in writing of the inability of any Key Personnel and replace that person with a person of equivalent experience and expertise ("Replacement Personnel"). The Contractor shall provide to the Client such details as the Client may reasonably require in writing regarding any Replacement Personnel. The Client shall have absolute discretion as to the suitability of any proposed Replacement Personnel.

3. PAYMENT

A. Subject to the provisions of this clause 3 the Client shall pay and discharge the Charges (plus any applicable VAT), in the manner specified at Schedule C. Invoicing arrangements shall be on such terms as may be agreed between the Parties.

B. Discharge of the Charges is subject to:

1. Compliance by the Contractor with the provisions of this Agreement including but not limited to any milestones, compliance schedules and/or operational protocols in place pursuant to clause 10A from time to time;

2. The furnishing by the Contractor of a valid invoice and such supporting documentation as may be required by the Client from time to time. Any Contractor pre-printed terms and conditions are hereby disallowed;

3. Invoices being submitted to the Client's Contact (as set out in this Agreement or such other alternative contact as may be agreed between the Parties). All and any queries relating to the invoice and/or the Services for any billing period (including whether or not Services have been accepted, rejected, satisfactorily re-performed or as the case may be) must be raised by the Client's Contact within 14 calendar days of receipt of invoice. In circumstances where no queries are raised within the said 14 day period the invoice shall be deemed accepted. Upon resolution of any queries on the invoice to the satisfaction of the Client or upon such deemed acceptance the invoice shall be payable by the Client. Payment is subject to any rights reserved by the Client under any other provision of this Agreement; and

4. The Contractor having provided its current Tax Clearance Certificate to the Client. The Contractor shall comply with all applicable EU and domestic taxation law and requirements.

C. The European Communities (Late Payment in Commercial Transactions) Regulations, 2012 shall apply to all payments. Incorrect invoices will be returned for correction with consequential effects on the due date of payment.

D. Wherever under this Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Client in respect of any breach of this Agreement), the Parties may agree to deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Agreement or under any other agreement or contract with the Client. Any overpayment by either Party, whether of the Charges or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

E. The Charges shall include any and all costs or expenses incurred by the Contractor, its employees, servants and agents in the performance of its obligations under this Agreement.

F. The Charges shall be discharged as provided for in this clause subject to the retention by the Client in accordance with section 523 of the Taxes Consolidation Act 1997 of any Professional Services Withholding Tax payable. Any and all taxes applicable to the provision of the Services will be the sole responsibility of the Contractor and the Contractor so acknowledges and confirms.

4. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

A. The Contractor acknowledges, warrants, represents and undertakes that:

1. it has the authority and right under law to enter into, and to carry out its obligations and responsibilities under this Agreement and to provide the Services hereunder;

2. it is entering into this Agreement with a full understanding of its material terms and risks and is capable of assuming those risks;

3. it is entering into this Agreement with a full understanding of its obligations with regard to taxation, employment, social and environmental protection and is capable of assuming and fulfilling those obligations;

4. it has acquainted itself with and shall comply with all legal requirements or such other laws, recommendations, guidance or practices as may affect the provision of the Services as they apply to the Contractor;

5. it has taken all and any action necessary to ensure that it has the power to execute and enter into this Agreement;

6. the status of the Contractor, as declared in the "Declaration as to Personal Circumstances of Tenderer" dated [date], , remains unchanged;

7. it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights (as defined in clause 6 below) that are necessary for the performance of its obligations under this Agreement and for the Client to obtain the benefit of the Services for its business purposes;

8. *Delete and replace with "Not Used" if not applicable:*

it has inspected the Client's premises, lands and facilities before submitting its Submission and has made appropriate enquiries so as to be satisfied in relation to all matters connected with the performance of its obligations under this Agreement;

9. the Client shall be under no obligation to purchase any minimum number or value of Services; and

10. it retains and shall maintain for the Term insurances for the nature and amount specified in the SRFT. The Contractor undertakes to advise the Client forthwith of any material change to its insured status, to produce proof of current premiums paid upon written request and where required produce valid certificates of insurance for inspection. The Contractor shall carry out all directions of the Client with regard to compliance with this clause 4A.10.

B. The Contractor undertakes to notify the Client forthwith of any material change to the status of the Contractor with regard to the warranties, acknowledgements representations and undertakings as set out at clause 4A and to comply with all reasonable directions of the Client with regard thereto which may include termination of this Agreement.

5. REMEDIES

Prior to publication please ensure to insert amounts/figures where applicable. When finished, delete these instructions.

A. The Contractor shall be liable for and shall indemnify the Client for and in respect of all and any losses, claims, demands, damages or expenses which the Client may suffer due to and arising directly as a result of the negligent act or negligent omission, breach of contract, breach of duty, insolvency, recklessness, bad faith, wilful default or fraud of the Contractor, its employees, subcontractors or agents or any of them or as a result of the Contractor's failure to exercise skill, care and diligence as outlined in clause 1. The terms of this clause 5A shall survive termination of this Agreement for any reason.

B. Save in respect of fraud (including fraudulent misrepresentation), personal injury or death or in respect of the Contractor's indemnity under clause 6(G), neither Party will be liable for any indirect losses (including loss of profit, loss of revenue, loss of goodwill, indirectly arising damages, costs and expenses) of any kind whatsoever and howsoever arising even if such Party has been advised of their possibility.

C. Should the Client find itself obliged to order elsewhere in consequence of the failure of the Contractor to deliver Services, the Client shall be entitled to recover from the Contractor any excess prices which may be paid by the Client.

D. Except as otherwise expressly provided by this Agreement, all remedies available to either Party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

E. *Delete and replace with "Not Used" if not applicable:*

Save in respect of fraud, personal injury or death or in respect of the Contractor's indemnity under clause 6(G) (for which no limit applies), the limit of the Contractor's aggregate liability to the Client under this Agreement whatsoever and howsoever arising shall not under any circumstances exceed 100% per cent of the Charges paid or projected to be paid (whichever is higher) under this Agreement] regardless of the number of claims.

F. If for any reason the Client is dissatisfied with the performance of the Contractor, a sum may be withheld from any payment otherwise due calculated as follows:

[insert]

("the Retention Amount") which Retention Amount shall not at any given time exceed [number] per cent of the Charges. In such event the Client shall identify the particular

Services with which it is dissatisfied together with the reasons for such dissatisfaction. Payment of the Retention Amount will be made upon replacement and/or remedy of the said Services as identified by the Client or resolution of outstanding queries. The Client shall hold the Retention Amount on behalf of the Contractor but without any obligation to invest. The terms of this clause 5F shall be without prejudice to and not be in substitution for any remedy of the Client under this Agreement.

G. Time of delivery shall be of the essence and if the Contractor fails to deliver the Services within the time period promised or specified in the Specification, the Client may by notice in writing to the Contractor's Contact release itself from any obligation to accept and pay for the Services and terminate this Agreement in either case without prejudice to any other rights and remedies of the Client.

H. *Not Used*

6. INTELLECTUAL PROPERTY

A. Intellectual Property Rights ("IPR") means all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, utility models, design models, designs, rights in confidential information, know-how, rights in the nature of unfair competition rights and rights to sue for passing off, and all pending applications for and registrations of patents, trademarks, service marks, and copyrights together with all connected and similar or analogous rights in any country or jurisdiction for the full term thereof.

B. Pre-existing IPR means all IPR existing prior to the date of this Agreement and all IPR in any materials, acquired or developed by or for Contractor or Client independently of this Agreement, and any IPR in Contractor's standard hardware and software products or modifications or updates to such products.

C. All IPR title and interest in all reports, data manuals and/or other materials (other than software) (including without limitation all and any audio or audio visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced for the purposes of this Agreement (collectively "the Materials") (or any part or parts thereof) shall vest in the Client and the Contractor so acknowledges and confirms. For the avoidance of doubt the Contractor hereby assigns all Intellectual Property Rights, title and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such Intellectual Property Rights title or interest may be deemed by law to reside in it in the Materials to the Client absolutely.

D. The Client grants to the Contractor a royalty-free non-exclusive licence to use the Client's Pre-existing IPR for the Term to the extent necessary to enable the Contractor to fulfil its obligations under this Agreement. Save as expressly set out in this clause 6 all Pre-Existing IPR shall remain the sole property of the party who owned, acquired or developed such intellectual property.

E. The Contractor shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of this Agreement.

F. Nothing in this Agreement shall prohibit or be deemed to prohibit the Contractor from providing services similar to the Services to any party other than the Parties hereto. In no event shall the Contractor be precluded from independently developing for itself, or for others, materials which are competitive with, or similar to, the Services and to use its general knowledge, skills and experience, and any ideas, concepts, know-how, formats, templates, methodologies and techniques that are acquired or used in the course of providing the Services.

G. The Contractor shall ensure that all and any necessary consents and/or licences for any software, instrument, modality or methodology are obtained and in place before use for the purposes of this Agreement (to include but not be limited to ensuring that the Client shall be vested with all necessary rights so as to enable the Client to enjoy the benefit of the Services for its business purposes). The Contractor hereby indemnifies the Client and shall keep and hold the Client harmless from and in respect of all and any losses (whether direct, indirect or consequential), liability, damages, claims, costs or expenses which arise by reason of any breach of third party Intellectual Property Rights in so far as any such rights are used for the purposes of this Agreement.

At the request of the Client for and in respect of any such breach, the Contractor shall at its expense and option:

(i) procure the necessary rights for the Client to continue use;

(ii) replace the relevant deliverable with a non-infringing equivalent;

(iii) replace the relevant deliverable to make it non-infringing while giving equivalent performance; or

(iv) if the Contractor cannot obtain the remedies in (i), (ii) or (iii) above, it may direct the return of the deliverable and refund to the Client Charges paid for such deliverable less a reasonable amount for the Client's use of the deliverable up to the time of return, provided such reasonable amount is due to the owner of the said deliverable, TOGETHER with all losses (whether direct, indirect or consequential) thereby accruing to the Client as a result of the breach.

H. Upon the termination of this Agreement for whatever reason, the Contractor shall immediately deliver up to the Client all the Materials prepared up to the date of termination. The provisions of this clause 6 will survive the expiration or termination of this Agreement for any reason.

7. CONFIDENTIALITY

A. Each of the Parties to this Agreement agrees to hold confidential all information, documentation and other material received, provided or obtained arising from their participation in this Agreement ("Confidential Information") and shall not disclose same to any third party except to:-

1. its professional advisers subject to the provisions of this clause 7; or
2. as may be required by law; or
3. as may be necessary to give effect to the terms of this Agreement subject to the provisions of this clause 7; or
4. in the case of the Client by request of any person or body or authority whose request the Client or persons associated with the Client (including but not limited to the Legislature and/or the Executive and/or the Civil Service) considers it necessary or appropriate to so comply.

B. The Contractor undertakes to comply with all reasonable directions of the Client with regard to the use and application of all and any of its Confidential Information and shall comply with the Confidentiality Agreement between the Contractor and the Client dated [insert date] and entered into pursuant to clause 13.2 of the Framework Agreement ("the Confidentiality Agreement").

The obligations in this clause 7 will not apply to any Confidential Information:

1. in the receiving Party's possession (with full right to disclose) before receiving it from the other Party; or
2. which is or becomes public knowledge other than by breach of this clause; or
3. is independently developed by the disclosing Party without access to or use of the Confidential Information.

is lawfully received by the disclosing Party from a third party (with full right to disclose).

C. The Contractor acknowledges that the security of the State and its information is of paramount importance to the Client. Accordingly the Contractor confirms that it will, if requested by the Client, from time to time, submit full personal details (including those of subcontractors) who are assigned to provide the Services (or any part thereof) under this Agreement. The Contractor further acknowledges that checks may be carried out in relation to all such personnel by police authorities and the Contractor shall comply with all reasonable directions of the Client arising therefrom.

D. In circumstances where the Client is subject to the provisions of the Freedom of Information Act 2014 or the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, then in the event of the Client receiving a request for information related to this Agreement, the Client shall consult with the Contractor in respect of the request. The Contractor shall specifically identify any information that is not to be disclosed on grounds of confidentiality or commercial sensitivity, and shall state the reasons for this sensitivity. The Client will consult the Contractor about this confidential or commercially sensitive information before making a decision on any request received under the above legislation. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

E The terms of this clause 7 shall survive expiry, completion or termination for whatever reason of this Agreement.

8. FORCE MAJEURE

A. A 'Force Majeure Event' means an event or circumstance or combination of events and/or circumstances not within the reasonable control of the Affected Party (as defined in clause 8B below) which has the effect of delaying or preventing that Party from complying with its obligations under this Agreement including but not limited to acts of God, war, out-break of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Contractor (or Subcontractor or agent) places of business.

B. In the event of any failure, interruption or delay in the performance of either Party's obligations (or of any of them) resulting from any Force Majeure Event, that Party ("the Affected Party") shall promptly notify the other Party in writing specifying:

1. the nature of the Force Majeure Event;
2. the anticipated delay in the performance of obligations;
3. the action proposed to minimise the impact of the Force Majeure Event;

and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party; provided always that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.

C. If the Force Majeure Event continues for 14 calendar days either Party may terminate at 14 days' notice.

D. In circumstances where the Contractor is the Affected Party, the Client shall be relieved from any obligation to make payments under this Agreement save to the extent that payments are properly due and payable for obligations actually fulfilled by the Contractor in accordance with the terms and conditions of this Agreement.

9. TERMINATION

A. This Agreement may be terminated by the Client, without liability for compensation or damages, by serving 1 month's written notice to the Contractor. This Agreement may be terminated by the Contractor, without liability for compensation or damages, by serving 1 month's written notice to the Client.

B. Either Party shall have the right (in addition to its rights under clause 9(a) and any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages on the happening of any of the following:

1. if the other Party commits any serious breach or a series of breaches of any provision of this Agreement and fails to remedy such breach(es) (if the breach(es) are capable of remedy) within 30 days after receipt of a request in writing from the other Party;

2. if the other Party becomes insolvent, becomes bankrupt, enters into examinership, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect;

3. in circumstances where the Client becomes aware of any conflict of interest on the part of the Contractor which cannot, in the opinion of the Client, be removed by other means; and

4. in circumstances where the Client becomes aware of any registrable interest on the part of the Contractor.

C. The Client shall have the right, in addition to any other rights which it has at law, to terminate this Agreement immediately and without liability for compensation or damages in circumstances where the Client becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Contractor.

D. Termination of this Agreement shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

E If requested by the Client, the Contractor shall, promptly furnish such anonymised information relating to the terms and conditions of the employment of all persons providing the Services as may be required by the Client ("Employment Information"). The Contractor agrees that the Client may release the Employment Information to third parties for the purposes of any procurement competition for the provision of the Services upon expiry of the Term or earlier termination of this Agreement for whatever cause.

10. CONTRACT MANAGEMENT

A. The Client's Contact and the Contractor's Contact shall liaise on a regular basis to address any issues arising which may impact on the performance of this Agreement and to agree milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client the Contractor shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.

B. The Contractor agrees to:

1. liaise with and keep the Client's Contact fully informed of any matter which might affect the observance and performance of the Contractor's obligations under this Agreement;

2. maintain such records and comply with such reporting arrangements and protocols as required by the Client from time to time;

3. comply with all reasonable directions of the Client; and

4. comply with the service levels and performance indicators set out in Schedule D.

C. The Client or its authorised representative may inspect the Contractor's premises, lands and facilities (or such part or parts thereof relating solely to this Agreement) with due access to relevant personnel and records upon reasonable notice in writing to ensure compliance with the terms of this Agreement. The Contractor shall comply with all reasonable directions of the Client thereby arising. The cost of inspection shall be borne by the Client.

11. DISPUTES

A. In the event of any dispute arising out of or relating to this Agreement (the "Dispute"), the Parties shall first seek settlement of the Dispute as set out below.

B. The Dispute shall be referred as soon as practicable to [insert Contractor contact] within the Contractor and to [insert Client contact] within the Client respectively.

C. If the Dispute has not been resolved within fifteen (15) Business Days (or such longer period as may be agreed in writing by the Parties) of being referred to the nominated representatives, then either Party may refer the Dispute to an independent mediator, the identity of whom shall be agreed in advance by the Parties.

D. If the Parties are unable to agree on a mediator or if the mediator agreed upon is unable or unwilling to act, either Party may within twenty-one (21) days from the date of the proposal to appoint a Mediator or within twenty-one (21) days of notice to either Party that the mediator is unable to act, apply to Mediators' Institute of Ireland to appoint a mediator.

E. Any submissions made to and discussions involving the mediator, of whatever nature, shall be treated in strict confidence and without prejudice to the rights and/or liabilities of the Parties in any legal proceedings and, for the avoidance of doubt, are agreed to be without prejudice and legally privileged. The Parties shall make written submissions to the mediator within ten (10) Business Days of his/her appointment.

F. The Parties shall share equally the cost of the mediator. The costs of all experts and any other third parties who, at the request of any Party, shall have been instructed in the mediation, shall be for the sole account of, and shall be discharged by that Party.

G. For the avoidance of doubt, the obligations of the Parties under this Agreement shall not cease, or be suspended or delayed by the reference of a dispute to mediation. The Contractor shall comply fully with the requirements of the Agreement at all times.

12. GOVERNING LAW, CHOICE OF JURISDICTION AND EXECUTION

A. This Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Parties hereby agree that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.

B. This Agreement shall be executed in duplicate and each copy of the Agreement shall be signed by all the Parties hereto. Each of the Parties to this Agreement confirms that this Agreement is executed by their duly authorised officers.

13. NOTICES

A. Any notice or other written communication to be given under this Agreement shall either be delivered personally or sent by registered post or email. The Parties will from time to time agree primary and alternative contact persons and details for the purposes of this clause 13.

B. All notices shall be deemed to have been served as follows:

1. if personally delivered, at the time of delivery;
2. if posted by registered post, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities (and not returned undelivered); and
3. if communicated by email, on the next calendar day following transmission.

14. ASSIGNMENT AND SUBCONTRACT

A. Subject to a Party's obligations at law, any assignment to a third party or other transfer of a Party's rights or obligations under this Agreement (the "Assignment") requires the prior written consent of the other Party. Prior to any such Assignment, the assignee will be obliged to sign an undertaking to comply with all obligations under this Agreement. Any attempted Assignment not complied with in the manner prescribed herein shall be null and void. Notwithstanding the foregoing, the Framework Client may, at any time, assign or otherwise transfer the whole or any part of this Agreement to any Minister or public sector body, entity, or office. Any such assignment, novation or transfer will be done at no additional cost to the Framework Client.

B. Subject to a Party's obligations at law, any sub-contract of a Party's rights or obligations under this Agreement requires the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed. Any attempted subcontract not complied with in the manner prescribed herein shall be null and void. For the purposes of Regulation (EU) No 833/2014 of July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same), the Client may require information from the Contractor in relation to the status of the proposed subcontractor(s) including, but not limited to, in respect of natural persons, copies of identity documents and, in respect of legal persons, a certificate or extract from the commercial register or other competent authority of the country in which the person is established.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding of the Parties, and any and all other previous agreements, arrangements and understandings (whether written or oral) between the Parties with regard to the subject matter of this Agreement (save where fraudulently made) are hereby excluded.

16. SEVERABILITY

If any term or provision herein is found to be illegal or unenforceable for any reason, then such term or provision shall be deemed severed and all other terms and provisions shall remain in full force and effect.

17. WAIVER

No failure or delay by either Party to exercise any right, power or remedy shall operate as a waiver of it, nor shall any partial exercise preclude further exercise of same or some other right, power or remedy.

18. NON-EXCLUSIVITY

Nothing in this Agreement shall preclude the Client from purchasing services (or Services) from a third party at any time during the currency of the Agreement.

19. MEDIA

No media releases, public announcements or public disclosures relating to this Agreement or its subject matter, including but not limited to promotional or marketing material, shall be made by the Contractor without the prior written consent of the Client.

20. CONFLICTS, REGISTRABLE INTERESTS AND CORRUPT GIFTS

A. The Contractor confirms that it has carried out a conflicts of interest check and is satisfied that neither it nor any Subcontractor nor agent as the case may be has any conflicts in relation to the Services and its obligations undertaken under this Agreement. The Contractor hereby undertakes to notify the Client immediately should any conflict or potential conflict of interest come to its attention during the currency of this Agreement and to comply with the Client's directions in respect thereof. In the event of such notification, the Client shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages.

B. Any registrable interest involving the Contractor (and any Subcontractor or agent as the case may be) and the Client, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed to the Client immediately upon such information becoming known to the Contractor (Subcontractor or agent as the case may be) and the Contractor shall comply with the Client's directions in respect thereof, to the satisfaction of the Client. In the event of such disclosure, the Client shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act 1995 (as amended) a copy of which is available on request.

C. The Contractor shall not offer or agree to give any public servant or civil servant any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this or any other public contract. Any breach of this clause 20C or the commission of any offence by the Contractor, any Subcontractor, agent or employee under the Criminal Justice (Corruption Offences) Act 2018 shall entitle the Client to terminate this Agreement immediately and without liability for compensation or damages and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Contractor of the amount or value of any such gift, consideration or commission.

21. ACCESS TO PREMISES

A. Any of the Client's premises made available from time to time to the Contractor by the Client in connection with this Agreement, shall be made available to the Contractor on a non-exclusive licence basis and shall be used by the Contractor solely for the purpose of performing its obligations under this Agreement. The Contractor shall have use of such premises as licensee and shall vacate the same on completion, termination or abandonment of this Agreement.

B. The Contractor shall upon reasonable notice by the Client allow the Client access to its premises (including the premises of any Subcontractor or agent) where the Services are being performed for the Client under this Agreement.

22. EQUIPMENT

A. The Contractor shall provide all equipment and materials necessary for the provision of the Services ("Equipment").

B. All Equipment brought onto the Client's premises shall be at the Contractor's own risk and the Client shall have no liability for any loss of, caused by or damage to any Equipment. The Contractor shall provide for the haulage or carriage thereof to the Client's premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the premises will remain the property of the Contractor.

C. The Contractor shall maintain and store all items of Equipment within the Client's premises in a safe, serviceable and clean condition.

D. The Contractor shall, at the Client's written request, at its own expense and as soon as reasonably practicable:

i. remove from the Client's premises any Equipment which in the reasonable opinion of the Client is either hazardous, noxious or not in accordance with this Agreement; and

ii. replace such item with a suitable substitute item of Equipment.

E. On completion of the Services the Contractor shall remove the Equipment used by the Contractor to provide the Services and shall leave the Client's premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Client's premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any of its employees or subcontractors.

23. NON SOLICITATION

A. For the Term and for a period of 12 months thereafter (and save in respect of publicly advertised posts) neither the Client nor the Contractor shall employ or offer employment to any of the other Party's employees without that other Party's prior written consent.

24. CHANGE CONTROL PROCEDURE

A. At any time during the Term of this Agreement, either Party may propose a change or changes to any part or parts of this Agreement.

B. The change control procedures set out in this Schedule will apply to all changes irrespective of whether the Contractor or the Client proposes the change.

C. A change control notice ("Change Control Notice") shall be prepared for all change requests. The Change Control Notice will provide an outline description of the change requested, the rationale for the change, the effect that the change will have on the Services (where known) and an estimate of the effort and cost required to prepare an impact assessment ("Impact Assessment").

D. All Change Control Notices proposing changes to this Agreement must be submitted for review to the other Party's Contact.

E. The Parties must indicate their acceptance or rejection of the change control request and/or Impact Assessment within a reasonable timeframe of its completion and Tender Submission for review, subject to a maximum of twenty (20) calendar days or such other period agreed between the Parties.

F. On approval of an Impact Assessment, this Agreement and/or the Schedules should be updated and revised as appropriate and in writing.

G. In the event that either Party rejects the Impact Assessment, the change(s) shall not take place and the Parties shall continue to perform their obligations under this Agreement.

H. The Contractor and the Client will agree a reasonable charge in advance for investigating each proposed variation and preparing each estimate, whether or not the variation is implemented. If the Client's request for any variation is subsequently withdrawn but results in a delay in the performance of the Services then the Contractor will not be liable for such delay and will be entitled to an extension of time equal to not less than the period of the delay.

25. DATA PROTECTION AND SECURITY

A. In this Agreement the following terms shall have the meanings respectively ascribed to them:
"Data" means all Confidential Information, whether in oral or written (including electronic) form, created by or in any way originating with the Client (including but not limited to his employees, agents, independent contractors and/or Sub-contractors) and all information that is the output of any computer processing, or other electronic manipulation of any information that was created by or in any way originating with the Client provided under this Agreement and includes any Personal Data;

"Data Controller" has the meaning given under the Data Protection Laws;

"Data Processor" has the meaning given under the Data Protection Laws;

"Data Protection Laws" means all applicable national and EU data protection laws, regulations and guidelines, including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "General Data Protection Regulation"), and any guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland.

"Data Subject" has the meaning given under the Data Protection Laws;

"Data Subject Access Request" means a request made by a Data Subject in accordance with rights granted under the Data Protection Laws to access his or her Personal Data;

"Personal Data" has the meaning given under Data Protection Laws;

"Processing" has the meaning given under the Data Protection Laws;

B. The Contractor shall comply with all applicable requirements of the Data Protection Laws.

C. The Parties acknowledge that for the purposes of the Data Protection Laws, the Client is the Data Controller and the Contractor is the Data Processor in respect of Data which is Personal Data. Schedule E sets out the scope, nature and purpose of Processing by the Contractor, the duration of the Processing and the types of Personal Data and categories of Data Subject.

D. Without prejudice to the generality of clause 25B, the Contractor shall, in relation to any Personal Data processed in connection with the performance by the Contractor of its obligations under this Agreement:-

(1) process that Personal Data only on the written instructions of the Client;

(2) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

(3) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

(4) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled;

i. appropriate safeguards are in place in relation to the transfer, to ensure that Personal Data is adequately protected in accordance with Chapter V of Regulation 2016/679 (General Data Protection Regulation);

ii. the data subject has enforceable rights and effective legal remedies;

iii. The Contractor complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and

iv. The Contractor complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;

E. The Contractor shall promptly notify the Client if it receives a Data Subject Access Request to have access to any Personal Data or any other complaint, correspondence, notice, request any order of the Court or request of any regulatory or government body relating to the Client's obligations under the Data Protection Laws and provide full co-operation and assistance to the Client in relation to any such complaint, order or request (including, without limitation, by allowing Data Subjects to have access to their data).

F. The Contractor shall without undue delay report in writing to the Client any data compromise involving Personal Data, or any circumstances that could have resulted in unauthorised access to or disclosure of Personal Data.

G. The Contractor shall assist the Client in ensuring compliance with its obligations under the Data Protection Laws with respect to security, impact assessments and consultations with supervisory authorities and regulators.

H. The Contractor shall at the written direction of the Client, amend, delete or return Personal Data and copies thereof to the Client on termination of this Agreement unless the Contractor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Contractor to store the Personal Data.

I. The Contractor shall permit the Client, the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland, and/ or their nominee to conduct audits and or inspections of the Contractor's facilities, and to have access to all data protection, confidentiality and security procedures, data equipment, mechanisms, documentation, databases, archives, data storage devices, electronic communications and storage systems used by the Contractor in any way for the provision of the Services. The Contractor shall comply with all reasonable directions of the Client arising out of any such inspection, audit or review.

J. The Contractor shall fully comply with, and implement policies which are communicated or notified to the Contractor by the Client from time to time.

K. The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause 25 and allow for inspections and contribute to any audits by the Client or the Client's designated auditor.

L. The Contractor shall:-

(1) take all reasonable precautions to preserve the integrity of any Personal Data which it processes and to prevent any corruption or loss of such Personal Data;

(2) ensure that a back-up copy of any and all such Personal Data is made [insert frequency] and this copy is recorded on media from which the data can be reloaded if there is any corruption or loss of the data; and

(3) in such an event and if attributable to any default by the Contractor or any Sub-contractor, promptly restore the Personal Data at its own expense or, at the Client's option, reimburse the Client for any reasonable expenses it incurs in having the Personal Data restored by a third party.

M. (IF YOU ARE NOT CONSENTING TO A THIRD PARTY PROCESSOR – DELETE IF NOT IN USE)

The Client does not consent to the Contractor appointing any third party processor of Personal Data under this agreement

(OR IF USING A THIRD PARTY PROCESSOR – DELETE IF NOT IN USE)

The Client consents to the Contractor appointing such sub-processors identified in the Response and set out in Schedule E. During the Term of the Services Contract, if the Contractor proposes any changes to its sub-processor(s), the Contractor must inform the Client at least 30 days in advance. The Contractor shall provide to the Client such details as the Client may reasonably require in writing regarding any replacement sub-processor. If the Client does not object to the notified amendments within the 30 day period, the Client shall be deemed to have consented to the change. The Client shall have absolute discretion as to the suitability of any proposed replacement sub-processor.

The Contractor confirms that it has entered or (as the case may be) will enter into a written agreement incorporating terms which are substantially similar to those set out in this clause 25 as between the Client and the Contractor. The Contractor shall, if called upon to do so, make available to the Client, copies of such sub-processing agreements in order to evidence compliance with this clause. The Contractor shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 25.

N. Save for clauses 25B, 25C, 25D(4) and 25E, all the obligations on the Contractor in this clause 25 relating to the processing of Personal Data shall apply to the processing of all Data.

O. The provisions of this clause 25 shall survive termination and or expiry of this Agreement for any reason.

26. ADDITIONAL CONDITION(S)

[Delete and replace with 'Not Used' if not applicable:

This is a free text area to allow the Client to include any additional conditions to the Contract, for example a price review clause. Such additional conditions can be set out here by the Client]

Schedule B: Services: The Specification

[Insert when completing contract]

Schedule C: Charges

[Insert when completing contract]

Schedule D: Service Levels

[Insert at RFT stage, if applicable, or when completing contract]

Schedule E: Data Protection

[complete when completing the contract]

Processing, Personal Data and Data Subjects

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 personal data

3. Categories of data subject

4. Approved Third Party Processors

[Contractor to provide list of its third party processors at the time of signing the Framework Contract which shall include full names of the entities.]

Schedule F: Service Request Form

PART A – For Completion by Framework Client	
SERVICE REQUEST FORM FOR SERVICES RELATED TO THE RECEIPT AND INVESTIGATION OF PROTECTED DISCLOSURES THR081F	
Contracting Authority	Click here and insert details
Main Contact Name and Position	Click here and insert details
Address of Contracting Authority	Click here and insert details
Telephone Number	Click here and insert details
Email Address	Click here and insert details
Services Required (Tick relevant Lot)	☐ Lot 1 Full independent investigative services into alleged wrongdoing purported to be disclosed under the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022, including the review of such investigations.
	☐ Lot 1 Review of investigation into an alleged wrongdoing to be disclosed under the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022.
	☐ Lot 2 Full independent investigations of allegations of penalisation or adverse treatment as a result of having made a protected disclosure, including the review of such investigations.
	☐ Lot 2 Review of investigation into allegations of penalisation or adverse treatment as a result of having made a disclosure of a wrongdoing to be made pursuant to the Protected Disclosures Act 2014, as amended by the Protected Disclosures (Amendment) Act 2022.
	☐ Lot 3 Provision of a third-party confidential recipient service for receipt and initial assessment of disclosures made to an external party under Section 6(2) of the Act.
For Reviews Only - name of the company that carried out the initial investigation is provided in the e-mail to which this form is attached.	☐
Specialisation Required – Lots 1 and 2 only	[insert required specialisation]
Gender Balance Required	☐

Effective Date of the Contract	[insert estimated contract commencement date and duration of contract term (in months)]

Third party processing

(IF YOU ARE NOT CONSENTING TO A THIRD PARTY PROCESSOR – DELETE IF NOT IN USE)

The Client does not consent to the Contractor appointing any third party processor of Personal Data under this agreement

(OR IF USING A THIRD PARTY PROCESSOR – DELETE IF NOT IN USE)

The Client consents to the Contractor appointing those third party processors identified in this Schedule E as a third-party processor of Personal Data under this Agreement. The Contractor confirms that it has entered or (as the case may be) will enter into a written agreement incorporating terms which are substantially similar to those set out in clause 26 as between the Client and the Contractor, the Contractor shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to clause 26.

Data Protection – Schedule E of the Framework sets out Data Protection information in relation to Processing, Personal Data and Data Subjects under the Framework. The Framework Client may in consultation with their Data Protection Officer make adjustments.

SIGNED BY THE FRAMEWORK CLIENT	
Signature: ***Digital Signature where possible**	
Block Capitals:	
Position:	
Date:	

*This document must remain as an editable document to enable completion by Framework Member PART B - For Completion by Framework Member	
LOT 1 - FRAMEWORK MEMBER RESPONSE FORM	
The Framework Member **DOES NOT** have the capacity to deliver the services	☒
The Framework Member confirms that the Nominated Investigator(s) below will declare any Conflict of Interest as soon as they become aware of it.	☐
Nominated Lead Investigator Name:	Click here and insert details
Second Investigator Name (optional):	Click here and insert details
Third Investigator Name (optional):	Click here and insert details
The Framework Member confirms that they do not exceed the initial limit of six [6] ongoing Cases.	☐
Charges	
*Hourly Rate for Full Investigative Services - Investigator	€
*Hourly Rate for Review Services (where requested) - Investigator	€

***Prices quoted by Tenderers cannot exceed the maximum rates quoted for the Framework**

Third Party Processors (where applicable) – To Be Completed by the Framework Member

SIGNED BY THE FRAMEWORK MEMBER	
Signature: ***Digital Signature where possible**	
Block Capitals:	
Position:	
Date:	

*This document must remain as an editable document to enable completion by Framework Member PART B - <u>For Completion by Framework Member</u>		
LOT 2 - FRAMEWORK MEMBER RESPONSE FORM		
The Framework Member **<u>DOES NOT</u>** have the capacity to deliver the services		☐
The Framework Member confirms that the Nominated Investigator(s) below will declare any Conflict of Interest as soon as they become aware of it.		☐
Nominated Lead Investigator Name:	Click here and insert details	
Second Investigator Name (optional):	Click here and insert details	
Third Investigator Name (optional):	Click here and insert details	
The Framework Member confirms that they do not exceed the initial limit of three [3] ongoing Cases.		☐
Charges		
*Hourly Rate for Full Investigative Services - <u>Investigator</u>	€	
*Hourly Rate for Review Services (where requested) - <u>Investigator</u>	€	

***Prices quoted by Tenderers cannot exceed the maximum rates quoted for the Framework**

Third Party Processors (where applicable) – To Be Completed by the Framework Member

SIGNED BY THE FRAMEWORK MEMBER	
Signature: ***Digital Signature where possible**	
Block Capitals:	
Position:	
Date:	

*This document must remain as an editable document to enable completion by Framework Member PART B - For Completion by Framework Member	
LOT 3 - FRAMEWORK MEMBER RESPONSE FORM	
The Framework Member **DOES NOT** have the capacity to deliver the services	☐
The Framework Member confirms that the nominated confidential recipient(s) below will declare any Conflict of Interest as soon as they become aware of it.	☐
Nominated Lead Confidential Recipient Name:	Click here and insert details
Second Confidential Recipient (Name (optional):	Click here and insert details
Charges	
*Rate of Services - **Confidential Recipient**	€

***Prices quoted by Tenderers cannot exceed the maximum rates quoted for the Framework**

Third Party Processors (where applicable) – To Be Completed by the Framework Member

SIGNED BY THE FRAMEWORK MEMBER	
Signature: ***Digital Signature where possible**	
Block Capitals:	
Position:	
Date:	

Appendix 7: Confidentiality Agreement

THIS AGREEMENT is made on the [date] day of [month] 20 [year] BETWEEN:

The [insert name of Contracting Authority]/[insert name of Framework Client] of [insert address] (hereinafter "the Client") of the one part;
and[Framework Member's legal name] of [Framework Member's address] (hereinafter called "the Contractor") of the other part.

WHEREAS

A. By Request for Tenders dated [insert date] entitled [insert title] (the "RFT") the [insert name of Contracting Authority] invited tenders ("Tenders") for the provision of the Services described in Appendix 1 to the RFT (the "Services") ("the Competition"). The Contractor submitted a response to the RFT dated the [insert date of Tender].

   The Contractor and the [Insert name of Contracting Authority] have entered into a framework agreement dated [insert date] ("the Framework Agreement").

B. For the purposes of the tender process referred to in the RFT (the "Competition"), the Framework Agreement and any subsequent contract or contracts awarded thereunder (if any) (the "Contract(s)") certain confidential information as defined at clause 2 of this Agreement, will be furnished to the Contractor. The Confidential Information is confidential to the Client.

NOW IT IS HEREBY AGREED in consideration of the sum of €2.00 (the receipt of which is hereby acknowledged by the Contractor) as follows:

1. The Contractor acknowledges that Confidential Information may be provided to them by the Client and that each item of Confidential Information shall be governed by the terms of this Agreement.

2. For the purposes of this Agreement "Confidential Information" means:

   2.1 unless specified in writing to the contrary by the Client all and any information (whether in documentary form, oral, electronic, audio-visual, audio-recorded or otherwise including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the Client, the supply of Services under the Contract and all and any information supplied or made available to the Contractor (to include employees, agents, Subcontractors and other suppliers) for the purposes of the Framework Agreement and/or the Contract(s) including personal data within the meaning of the Data Protection Laws; and

   2.2 any and all information which has been derived or obtained from information described in sub-paragraph 2.1.

3. For the purposes of this Agreement “Data Protection Laws” means all applicable national and EU data protection laws, regulations and guidelines, including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the “General Data Protection Regulation”), and any guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time

4. Save as may be required by law, the Contractor agrees in respect of the Confidential Information:

4.1 to treat such Confidential Information as confidential and to take all necessary steps to ensure that such confidentiality is maintained;

4.2 not, without the prior written consent of the Client, to communicate or disclose any part of such Confidential Information to any person except:

i to those employees, agents, Subcontractors and other suppliers on a need to know basis; and/or

ii to the Contractor’s auditors, professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the Contractor

PROVIDED ALWAYS that the Contractor shall ensure that all such persons and bodies are made aware, prior to disclosure, of the confidential nature of the Confidential Information and that they owe a duty of confidence to the Clients; and shall use all reasonable endeavours to ensure that such persons and bodies comply with the provisions of this Agreement.

5. The obligations in this Agreement will not apply to any Confidential Information:

i in the Contractor’s possession (with full right to disclose) before receiving it from the Client, as applicable; or

ii which is or becomes public knowledge other than by breach of this clause; or

iii is independently developed by the Contractor without access to or use of the Confidential Information; or

iv is lawfully received from a third party (with full right to disclose).

6. The Contractor undertakes:

6.1 to comply with all directions of the Clients with regard to the use and application of all and any Confidential Information or data (including personal data as defined in the Data Protection Laws);

6.2 to comply with all directions as to local security arrangements deemed reasonably necessary by the Client including, if required, completion of documentation under the Official Secrets Act 1963 and comply with any vetting requirements of the Client including by police authorities;

6.3 upon termination of the Competition (or the Framework Agreement or the Contract) for whatever reason to furnish to the Client all Confidential Information or at the written direction of the Client to destroy in a secure manner all (or such part or parts thereof as may be identified by the Contracting Authority and/or any Framework Client) Confidential Information in its possession and shall erase any Confidential Information held by the Contractor in electronic form. The Contractor will upon request furnish a certificate to that effect should the Client so request in writing. For the avoidance of doubt "document" includes documents stored on a computer storage medium and data in digital form whether legible or not.

7. The Contractor shall not obtain any proprietary interest or any other interest whatsoever in the Confidential Information furnished to them by the Client and the Contractor so acknowledges and confirms.

8. The Contractor shall, in the performance of the Framework Agreement and any Contract, access only such hardware, software, infrastructure, or any part of the databases, data or ICT system(s) of the Client as may be necessary for the purposes of the Competition (and obligations thereunder or arising therefrom) and only as directed by the Client, as applicable, and in the manner agreed in writing between the Parties.

9. The Contractor agrees that this Agreement will continue in force notwithstanding any court order relating to the Competition or termination of the Framework Agreement or termination of the Contract (if awarded) for any reason.

10. The Contractor agrees that this Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Contractor hereby further agrees that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.

11. A. In this Agreement, the following terms shall have the meanings respectively ascribed to them:

"Data Controller" has the meaning given under the Data Protection Laws;

"Data Processor" has the meaning given under the Data Protection Laws;

"Data Subject" has the meaning given under the Data Protection Laws;

"Data Subject Access Request" means a request made by a Data Subject in accordance with rights granted under the Data Protection Laws to access his or her Personal Data;

"Personal Data" has the meaning given under Data Protection Laws;

"Processing" has the meaning given under the Data Protection Laws;

B. The Contractor shall comply with all applicable requirements of the Data Protection Laws.

C. The Parties acknowledge that for the purposes of the Data Protection Laws, the Client is the Data Controller and the Contractor is the Data Processor in respect of

Confidential Information which is Personal Data. Schedule A sets out the scope, nature and purpose of Processing by the Contractor, the duration of the Processing and the types of Personal Data and categories of Data Subject.

D. Without prejudice to the generality of clause 11(B), the Contractor shall, in relation to any Confidential Information which is Personal Data:-

(1) process that Personal Data only on the written instructions of the Client;

(2) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

(3) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

(4) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled;

   i. appropriate safeguards are in place in relation to the transfer, to ensure that Personal Data is adequately protected in accordance with Chapter V of Regulation 2016/679 (General Data Protection Regulation);
   ii. the data subject has enforceable rights and effective legal remedies;
   iii. The Contractor complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and
   iv. The Contractor complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;

E. The Contractor shall promptly notify the Client if it receives a Data Subject Access Request to have access to any Personal Data or any other complaint, correspondence, notice, request any order of the Court or request of any regulatory or government body relating to the Client's obligations under the Data Protection Laws and provide full co-operation and assistance to the Client in relation to any such complaint, order or request (including, without limitation, by allowing Data Subjects to have access to their data).

F. The Contractor shall without undue delay report in writing to the Client any data compromise involving Personal Data, or any circumstances that could have resulted in unauthorised access to or disclosure of Personal Data.

G. The Contractor shall assist the Client in ensuring compliance with its obligations under the Data Protection Laws with respect to security, impact assessments and consultations with supervisory authorities and regulators.

H. The Contractor shall at the written direction of the Client, amend, delete or return Personal Data and copies thereof to the Client on termination of this Agreement unless the Contractor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Contractor to store the Personal Data.

I. The Contractor shall permit the Client, the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland, and / or their nominee to conduct audits and or inspections of the Contractor's facilities, and to have access to all data protection, confidentiality and security procedures, data equipment, mechanisms, documentation, databases, archives, data storage devices, electronic communications and storage systems used by the Contractor in any way for the provision of the services. The Contractor shall comply with all reasonable directions of the Client arising out of any such inspection, audit or review.

J. The Contractor shall fully comply with, and implement policies which are communicated or notified to the Contractor by the Client from time to time.

K. The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause 11 and allow for inspections and contribute to any audits by the Client or the Client's designated auditor.

L. The Contractor shall:-

1. take all reasonable precautions to preserve the integrity of any Personal Data which it processes and to prevent any corruption or loss of such Personal Data;
2. ensure that a back-up copy of any and all such Personal Data is made [insert frequency] and this copy is recorded on media from which the data can be reloaded if there is any corruption or loss of the data; and
3. in such an event and if attributable to any default by the Contractor or any Sub-contractor, promptly restore the Personal Data at its own expense or, at the Client's option, reimburse the Client for any reasonable expenses it incurs in having the Personal Data restored by a third party.

(IF YOU ARE NOT CONSENTING TO A THIRD PARTY PROCESSOR - DELETE IF NOT IN USE)

M. The Client does not consent to the Contractor appointing any third party processor of Personal Data under this agreement.

(OR IF USING A THIRD PARTY PROCESSOR - DELETE IF NOT IN USE)

The Client consents to the Contractor appointing [insert third-party processor] as a third-party processor of Personal Data under this Agreement. The Contractor confirms that it has entered or (as the case may be) will enter into a written agreement incorporating terms which are substantially similar to those set out in this clause 11 as between the

Client and the Contractor. The Contractor shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 11.

N. Save for clauses 11B, 11C, 11D(4) and 11E, all the obligations on the Contractor in this clause 11 relating to the processing of Personal Data shall apply to the processing of all Confidential Information.

SIGNED for and on behalf of the Client ___________________________ (being a duly authorised officer)	SIGNED for and on behalf of the Contractor _____________________________
Witness ___________________________	Witness ___________________________

Schedule A to the Confidentiality Agreement: Data Protection

[complete when completing the confidentiality agreement]

Processing, Personal Data and Data Subjects

5. Processing by the Contractor

   5.1 Subject matter of processing
   5.2 Nature of processing
   5.3 Purpose of processing
   5.4 Duration of the processing

6. Types of personal data

7. Categories of data subject