

INSTRUCTIONS DOCUMENT

FOR

REQUEST FOR APPLICATIONS

FOR APPOINTMENT TO A

MULTI-PARTY FRAMEWORK AGREEMENT

FOR

ASBESTOS REMOVAL AND DISPOSAL

RESPONSE DEADLINE – 04TH MAY 2021, 15:00 HRS

**PLEASE NOTE THAT ALL INFORMATION RELATING TO THIS COMPETITION,
INCLUDING CLARIFICATIONS AND ADDENDA WILL BE PUBLISHED ON**

WWW.ETENDERS.GOV.IE

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1.0 INTRODUCTION

1.1 PRIMARY INFORMATION AND CONTRACTING AUTHORITIES

- 1.1.1 The Local Government Operational Procurement Centre (hereinafter referred to as "the LGOPC")¹, acting as a central purchasing body² under the auspices of Kerry County Council, is co-ordinating the establishment of a Framework Agreement of Economic Operators³ for Asbestos Removal And Disposal (hereinafter referred to as "the Framework Agreement") on behalf of contracting authorities⁴.
- 1.1.2 The contracting authorities eligible to partake in the Framework Agreement (hereinafter referred to as "the Contracting Authorities") include:
- 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 (as defined in the Local Government Act 2014), (themselves including regional assemblies, local enterprise boards and library bodies), and those approved housing bodies which also constitute "bodies governed by public law" within the meaning of Regulation 2 of the European Union (Award of Public Authority Contracts Regulations 2016 (S. I. No. 284 of 2016) (hereinafter referred to as "the Regulations"), listed on the Register of Approved Housing Bodies maintained by the Department of Housing, Local Government and Heritage currently approved under section 6 of the Housing Act 1992;
 - Contracting authorities in the Irish health sector including but not limited to the Health Service Executive (HSE); the Health Information and Quality Authority (HIQA) and HSE funded Agencies delivering health & personal social services funded by more than 50% from Exchequer funds;
 - Contracting authorities which are Third Level Educational Institutions (including universities, institutes of technology and members of the Education Procurement Service);
 - 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;
 - An Garda Síochána (Police);
 - The Irish Prison Service;
 - Office of Public Works (OPW);
 - The Irish Defence Forces;
 - The Housing Agency.
- 1.1.3 Economic Operators admitted to the Framework Agreement will be invited to participate in Supplementary Requests for Tender⁵ (hereinafter referred to as "Supplementary Request(s) for Tender") issued by the Contracting Authorities through www.supplygov.ie⁶ (hereinafter referred to as "Supplygov") for Asbestos Removal And Disposal (hereinafter collectively referred to as "Works") during the term of the Framework Agreement.
- 1.1.4 The Framework Agreement shall take effect on the Effective Date⁷. This Framework Agreement shall be established for a term of four (4) years unless it is otherwise terminated in accordance with the provisions

¹ The LGOPC is responsible for the development and implementation of central purchasing mechanisms for the Category Councils of Plant Hire and Minor Building Works & Civils as established by the Office of Government Procurement.

² Central Purchasing Body means a central purchasing body as defined by Regulation 2(1) of the European Union (Award of Public Authority Contracts) Regulations 2016 (S. I. No. 284 of 2016) (hereinafter referred to as "the Regulations").

³ Economic Operator means an economic operator as defined by Regulation 2(1) of the Regulations.

⁴ Contracting authorities means a contracting authority as defined by Regulation 2(1) of the Regulations.

⁵ Supplementary Request for Tender means a request for tender issued by the Contracting Authorities to the Economic Operators admitted to the Framework Agreement via www.supplygov.ie for a Supplementary Request for Tender Contract (hereinafter referred to as an "sRFT Contract").

⁶ www.supplygov.ie is a procurement platform operated by the LGOPC facilitating Local Authorities and other state agencies in the public procurement of goods, works and services from economic operators.

⁷ means the date when the Framework Agreement becomes active.

of this Framework Agreement. It is anticipated that the Framework Agreement will commence in Quarter 2 2021.

- 1.1.5 The total value of contracts to be awarded under the Framework Agreement (hereinafter referred to as "sRFT Contract(s)")⁸ is estimated to exceed the threshold whereby Directive 2014/24 EU and the Regulations apply to this call for competition.

1.2 DIVISION INTO LOTS

- 1.2.1 Not Applicable to this Framework Agreement.

⁸ sRFT Contract means a contract for Works entered between an Economic Operator and a Contracting Authority following a Supplementary Request for Tender.

2.0 ESTABLISHMENT AND OPERATION OF THE FRAMEWORK AGREEMENT

2.1 STAGE 1 – CALL FOR COMPETITION – ADMITTANCE TO THE FRAMEWORK AGREEMENT

This stage is hosted on www.etenders.gov.ie⁹ (hereinafter referred to as "eTenders").

- 2.1.1 Stage 1 is the establishment of a Multi-Party Framework Agreement following a tender competition issued by the LGOPC on eTenders seeking applications from Economic Operators for works associated with Asbestos Removal and Disposal. In stage 1, the LGOPC assesses the Economic Operator against the exclusion grounds, selection criteria and tender award criteria. All Economic Operators that pass this assessment are admitted to the Framework Agreement and there is no limit to the number of Economic Operators that may be admitted.
- 2.1.2 Instructions on how to complete an application are outlined in **Section 4.0: Application Process** of this document.
- 2.1.3 Applications will be assessed in accordance with **Section 5.0: Tender Evaluation and Award to the Framework Agreement**.

2.2 STAGE 2 – SUPPLEMENTARY REQUESTS FOR TENDER

This stage is hosted on www.supplygov.ie (hereinafter referred to as "Supplygov").

- 2.2.1 Stage 2 involves the Contracting Authorities inviting the Economic Operators admitted to the Framework Agreement to tender for specific sRFT Contracts. Contracting Authorities shall invite, all Economic Operators admitted to the Framework Agreement that have indicated an interest in tendering for those region(s) selected as part of their application.

⁹ eTenders is a procurement platform administered by the Office of Government Procurement facilitating local authorities and other state agencies in the public procurement of goods, works and services.

3.0 INSTRUCTIONS

3.1 POINTS TO NOTE PRIOR TO MAKING AN APPLICATION

- 3.1.1 All documentation, information and communications relating to the Framework Agreement, including the Tender Documents¹⁰, are published on eTenders under the Contract Notice, which supersedes and replaces all previous documentation, communications and correspondence issued by the LGOPC and/or the Contracting Authorities in relation to same.
- 3.1.2 If an Economic Operator becomes aware of any ambiguity, discrepancy, error, or omission in the Tender Documents or in the online application process, it shall immediately notify the LGOPC through the eTenders messaging system.
- 3.1.3 The LGOPC gives no assurances as to the level of expenditure by the Contracting Authorities through the Framework Agreement and the admittance of an Economic Operator to the Framework Agreement does not constitute a commitment from the Contracting Authorities to enter into sRFT Contracts with the Economic Operator. Any costs incurred by the Economic Operator, howsoever arising, in making an application shall be the Economic Operator's own liability.
- 3.1.4 The Tender Documents, in whole or in part, may not be reproduced, stored, transmitted, or used for purposes other than this tender competition without the prior written permission of the LGOPC.
- 3.1.5 The LGOPC, acting in its sole discretion, may, by giving written notice, cancel this tender competition at any stage prior to the formal establishment of the Framework Agreement (or at any time during the term of the Framework Agreement in accordance with the terms of the Framework Agreement) without recompense to the Economic Operator.
- 3.1.6 Economic Operators can make only one application (per Economic Operator) in response to this tender competition.
- 3.1.7 Economic Operators not currently registered on eTenders must register as a "Supplier" on eTenders in order to make an application.
- 3.1.8 Economic Operators must:
- fully comply with this Instructions Document and a failure to do so may result in the application being deemed non-compliant. An Economic Operator that makes an application that is deemed non-compliant shall not be admitted to the Framework Agreement;
 - read the Tender Documents carefully and ensure that they fully understand the requirements of this tender competition and the terms of the Framework Agreement prior to applying;
 - take into account: (a) upload speeds may vary and; (b) there is a maximum upload limit of 2.14GB per file (documents larger than this should be divided into smaller files prior to upload);
 - ensure electronic documents are not corrupt.
- 3.1.9 The LGOPC will not issue hard copy correspondence relating to any aspect of this tender competition.
- 3.1.10 All correspondence will be issued via eTenders only and it is the responsibility of the Economic Operator to ensure that its correct email address for the receipt of electronic correspondence is recorded on its eTenders account.
- 3.1.11 If links are not working in any electronic correspondence (due to internal firewalls or IT security), log in directly via the eTenders portal to view.

¹⁰ Tender Documents mean the Instructions Document, the Agreement, the ESPD, the Selection Criteria and the Bill of Quantities, associated Contract(s) and Forms to be completed.

- 3.1.12 All Economic Operators should include noreply@eu-supply.com in their spam filters (if they use a filtering tool), in order to receive notifications.
- 3.1.13 Should an Economic Operator experience any technical difficulty with any aspect of its application on eTenders, please contact the eTenders Support Desk on 353 (0) 21 243 92 77 or via etenders@eu-supply.com.

3.2 COMPANY REGISTRATION DETAILS

- 3.2.1 Where an Economic Operator is registered with the Companies Registration Office (hereinafter referred to as the "CRO") it must ensure that:
- the registered company name and address as recorded in the CRO are used in all relevant parts of the application.
- 3.2.2 Where an Economic Operator is not registered with the CRO it must ensure that:
- the Economic Operator's name and address as registered with its VAT/Tax Registration Number is used in all relevant parts of the application.

3.3 CONSORTIUM/JOINT VENTURE

- 3.3.1 An Economic Operator comprising of a consortium or joint venture (hereinafter collectively referred to as the "Consortium") will not be required to convert into a specific legal entity to submit an application but may be required to do so prior to admittance to the Framework Agreement. In this respect the LGOPC may, at its discretion, enter into the Framework Agreement with:
- one member who will carry overall responsibility for the performance of an sRFT Contract;
 - each member of the Consortium on a joint and several liability basis;
 - one member of the Consortium with the other members being subcontractors; or
 - at its discretion, the LGOPC may require the Consortium to enter into any other contracting arrangement.

3.4 CONFIRMATION OF ECONOMIC OPERATOR DETAILS

- 3.4.1 The LGOPC may examine and verify the Economic Operator's details as submitted including, but not limited to, the following:
- Nature of the Economic Operator;
 - Name of the Economic Operator;
 - Address of the Economic Operator;
 - VAT/Tax Registration Number of the Economic Operator (if applicable); and
 - Company Registration Number of the Economic Operator (if applicable).
- 3.4.2 Where, in the course of such examination, the LGOPC determines that an Economic Operator has provided details that contain discrepancies, it may at its discretion contact the Economic Operator requesting that the Economic Operator provide or confirm the correct details.

3.5 COMMUNICATIONS, QUERIES AND CLARIFICATIONS

- 3.5.1 All queries from Economic Operators in relation to this tender competition may only be submitted online through the messaging function on eTenders.
- 3.5.2 The LGOPC will endeavor to respond to all reasonable queries validly received without delay. However, the LGOPC is not obliged, nor does it undertake, to respond to all queries received and queries seeking interpretation of this Instructions Document may not result in a response.

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- 3.5.3 Any queries, along with the LGOPC's response to same, will, where appropriate, be communicated to all those expressing an interest in this tender competition without disclosing the name of the Economic Operator who initiated the query.
- 3.5.4 If an Economic Operator believes a query and/or its response relates to a confidential or commercially sensitive aspect of its application, it must mark the query as "Confidential" and state the reason(s) why it believes it to be confidential or commercially sensitive. The LGOPC shall have regard to such statement but shall not be bound by same. If the LGOPC, in its absolute discretion, is satisfied that the query and/or its response should be properly regarded as being confidential or commercially sensitive, the nature of the query and its response shall be kept confidential subject to the LGOPC's and/or the Economic Operators obligations under public procurement and freedom of information legislation.

3.6 CANVASSING

- 3.6.1 Canvassing or any effort by an Economic Operator to influence any staff or agents of the LGOPC in relation to any aspect of this tender competition, may result in the Economic Operator's disqualification.
- 3.6.2 Where an Economic Operator has an existing relationship with the LGOPC (or its staff or agents), any discussions, correspondence or other influences on this tender competition may be treated as canvassing.
- 3.6.3 In accordance with Section 38 of the Ethics in Public Office Act 1995, any money, gift or other consideration from an Economic Operator holding, or seeking to obtain, admittance to the Framework Agreement will be deemed to have been paid or given corruptly unless the contrary is proved.

3.7 NOTICE OF ADDENDA

- 3.7.1 The LGOPC reserves the right, where necessary for the efficient and compliant operation of the Framework Agreement, to update or alter this Instructions Document, other Tender Documents and/or any information and documents pertaining to the Framework Agreement by written notice via eTenders and any such notification will automatically become part of the Tender Documents.

4.0 APPLICATION PROCESS

4.1 GENERAL

- 4.1.1 All applications must be made via eTenders.
- 4.1.2 Economic Operators must fully complete and submit the following in order to make a compliant application:
- the online European Single Procurement Document (hereinafter referred to as the "ESPD")
 - the online Selection Criteria (Envelope 1 - Technical Documents) including all requested supporting documentation;
 - the online Selection Criteria (Envelope 2 - Quotation Documents); and
 - the online Bill of Quantities.
- 4.1.3 Economic Operators do not need to complete the entire application process at one time. The application can be saved at any time prior to submission. A User Guide is available on eTenders.

4.2 ESPD

- 4.2.1 The ESPD is a self-declaration of the Economic Operator's financial status, abilities and suitability for a public procurement procedure and is used as preliminary evidence of fulfilment of the conditions required in public procurement procedures across the European Union.
- 4.2.2 Economic Operators can access the ESPD by clicking on "*Manage ESPD Responses*" in the ESPD section on eTenders and selecting '*Create*'.
- 4.2.3 **Part I** of the ESPD relates to information concerning the Contracting Authority and the procurement procedure and does not require any input on the part of the Economic Operator.
- 4.2.4 **Part II** of the ESPD relates to information concerning the Economic Operator and requires input on the part of the Economic Operator and includes the following:

Section A:

- This section has been pre-populated with the details entered by the Economic Operator when creating its profile on eTenders and it includes questions to be answered. The Economic Operator must:
 - a) ensure that the pre-populated details regarding the Economic Operator are correct

Or

 - b) if necessary, amend the pre-populated details regarding the Economic Operator in order to correct them.

Section B:

- The Economic Operator must enter details regarding the representative(s) of the Economic Operator i.e. the person(s) empowered to represent the Economic Operator for the purpose of this tender competition.
- Applications shall be made under the Economic Operators account on eTenders. Section B facilitates the identification of a representative empowered to complete this process on behalf of the Economic Operator.

Section C:

- If applicable, the Economic Operator must enter details regarding other entities that the Economic Operator relies on to meet the selection criteria (and rules (if any) under Part V of the online ESPD) of this tender competition.

Section D:

- This Section of the ESPD does not require any input on the part of the Economic Operator for this tender competition.

4.2.5 **Part III** of the ESPD relates to exclusionary grounds and requires input on the part of the Economic Operator as follows:

- Part 3.A: The Economic Operator must answer all queries on these exclusionary grounds.
- Part 3.B: The Economic Operator must answer all queries on these exclusionary grounds.
- Part 3.C: The Economic Operator must answer all queries on these exclusionary grounds.

4.2.6 **Part IV** of the ESPD: The Economic Operator must complete this declaration.

Important Note: In order to comply with the selection criteria for this tender competition the Economic Operator must separately fully complete all qualification questions as part of the Selection Criteria they intend to apply for. (A Note to this effect has been inserted by the LGOPC in Part IV of the online ESPD).

4.2.7 **Part V** of the ESPD does not require any input on the part of the Economic Operator for this tender competition.

4.2.8 **Part VI** of the ESPD allows the Economic Operator to review its responses before selecting the date and location prior to submission of the ESPD.

4.2.9 The Economic Operator must select the '**Finalize**' button in the bottom right hand corner of the screen in order to submit the ESPD.

4.3 ONLINE ENVELOPE 1 – TECHNICAL DOCUMENTS

Qualification questions

4.3.1 Economic Operators must complete all of the 'Qualification questions' for online envelope 1 on www.etenders.gov.ie.

4.3.2 Economic Operators can access the 'Qualification questions' by clicking on the 'Answer questions' button in the envelope 1 section of the 'My Response' page for this RFT on www.etenders.gov.ie.

4.3.3 A tender submission that includes an answer and/or response to a minimum selection criteria ("pass/fail criteria") question and/or declaration in the Online Qualification Questions which denotes that the Economic Operator fails to meet the minimum selection criteria for appointment to the Framework Agreement shall be deemed to be a compliant submission but shall be adjudged to fail to meet the minimum selection criteria necessary for entry on to the Framework Agreement and, accordingly, shall not be awarded entry on to the Framework Agreement.

4.4 ONLINE ENVELOPE 2 – QUOTATION DOCUMENTS

Qualification questions

4.4.1 Economic Operators must complete all of the 'Qualification questions' for online Envelope 2 on www.etenders.gov.ie.

4.4.2 Economic Operators can access the 'Qualification questions' by clicking on the 'Answer questions' button in the envelope 2 section of the 'My Response' page for this RFT on www.etenders.gov.ie.

4.4.3 A tender submission that includes an answer and/or response to a minimum selection criteria ("pass/fail criteria") question and/or declaration in the Online Qualification Questions which denotes that the Economic Operator fails to meet the minimum selection criteria for appointment to the Framework Agreement shall be deemed to be a compliant submission but shall be adjudged to fail to meet the minimum selection criteria necessary for entry on to the Framework Agreement and, accordingly, shall not be awarded entry on to the Framework Agreement.

4.5 ONLINE BILL OF QUANTITIES

Bill of Quantities

- 4.5.1 Economic Operators must complete the online Bill of Quantities.
- 4.5.2 Economic Operators can access the online Bill Of Quantities by clicking on the 'Price online' button in the Bill of Quantities section of the 'My Response' page for this RFT on www.etenders.gov.ie.

4.6 SUBMISSION OF APPLICATION

- 4.6.1 Economic Operators must click on "*Submit response*" on eTenders to submit their application.
- 4.6.2 Economic Operators can review the progress of their application via the "My response" page on eTenders.

4.7 RESPONSE DEADLINE

- 4.7.1 It is the responsibility of each individual Tenderer to ensure that their tender is submitted by the response deadline noted on www.etenders.gov.ie.

5.0 TENDER EVALUATION AND AWARD TO THE FRAMEWORK AGREEMENT

5.1 GENERAL

5.1.1 Applications for admittance to the Framework Agreement will be assessed by the LGOPC as follows:

| PROCESS | ACTION |
|---------------------------|--|
| Compliance | Assess completeness of application for compliance with requirements of the Tender Documents. |
| Selection Criteria | Compliant applications will be assessed in accordance with the selection criteria. |
| Tender Award | Award Scores and Rank Tenderers. |

5.2 COMPLIANCE

5.2.1 Applications will be assessed to determine whether they include all information and documentation required.

5.2.2 Compliant applications will proceed to be assessed in accordance with the selection criteria. Non-compliant applications will not progress any further in this competition.

5.3 SELECTION CRITERIA

5.3.1 Compliant applications will be assessed against the selection criteria. An Economic Operator that does not meet the minimum selection criteria will not progress any further in this competition.

5.3.2 Economic Operators must meet the minimum selection criteria.

5.4 CLARIFICATION OF TENDERS

5.4.1 During the assessment of an application, the LGOPC may seek clarifications or further information (or take such other legally permissible actions) from Economic Operators via eTenders.

5.4.2 The Economic Operator's response to a request for clarification or further information shall be submitted via eTenders no later than the date specified by the LGOPC. Any response provided by an Economic Operator may not constitute a material alteration of the application initially submitted.

5.5 TENDER AWARD

5.5.1 All applications that meet the minimum selection criteria will be further assessed and ranked in terms of the following award criteria and ranking methodology established for securing a place on the Framework Agreement:

| AWARD CRITERIA | WEIGHTING | MAXIMUM MARKS AVAILABLE |
|--|-----------|-------------------------|
| Most Economically Advantageous Tender: Price (<i>Total Price</i>) | 100% | 1,000 |

5.5.2 To secure a place on the Framework Agreement, each Tenderer will be ranked based on the 'Total Price' on www.etenders.gov.ie as follows -:

$$\text{Score on price formula} = (\text{Maximum 'Score'}) - 1,000 * (1 - (\text{Lowest 'Bid'}/\text{Bid}))$$

- 'Score' = marks awarded
- 'Bid' = Tenderers Total Price

5.5.3 The Tenderer who submits the lowest 'Total Price' will be awarded 1,000 marks and position 1 on the Framework Agreement.

5.5.4 All other Tenderers will receive marks and be ranked in descending order in accordance with the score on price formula above.

5.5.5 The ranking by the LGOPC of the Tenderer's applications is for the purpose of generally assembling the Framework Agreement only. The ranking by the LGOPC of a Tenderer on the Framework Agreement does not have any relevance to or impact on the subsequent award of contracts by Contracting Authorities following a Supplementary Request for Tender.

5.6 NOTIFICATION OF TENDER EVALUATION

5.6.1 Following the evaluation of tender submissions, Economic Operators will be informed electronically via www.eTenders.gov.ie of the outcome of the evaluation.

5.6.2 Notification of a successful application by the LGOPC to the Economic Operator shall not, in and of itself, give rise to any enforceable rights by the Economic Operator.

5.7 STANDSTILL PERIOD¹¹

5.7.1 A minimum standstill period of fourteen (14) days shall apply following notification of the award decision to the Economic Operators and the formal conclusion of the Framework Agreement.

5.7.2 Following the standstill period, the LGOPC shall:

- a) invite the successful Economic Operators to execute the Framework Agreement on Supplygov; and
- b) formally establish the Framework Agreement.

5.7.3 The Framework Agreement will then become operative and open to the Contracting Authorities to issue Supplementary Requests for Tender and award sRFT Contracts.

5.8 FRAMEWORK AGREEMENT

5.8.1 When an Economic Operator has submitted a successful application, it will be invited to formally enter on to the Framework Agreement by accepting the terms of the Framework Agreement electronically through Supplygov.

5.8.2 The Framework Agreement details the conditions for the award of Supplementary Requests for Tenders under the Framework Agreement. The Framework Agreement has been published with the Tender Documents.

¹¹ means a period of time to allow for effective pre-contract remedy to unsuccessful Tenderers. The Contracting Authority may not conclude a contract with the identified Preferred Tenderers during this time.