
**MULTI-PARTY
FRAMEWORK AGREEMENT**

FOR

ASBESTOS REMOVAL AND DISPOSAL

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THIS FRAMEWORK AGREEMENT IS MADE BETWEEN:

The Local Government Operational Procurement Centre (hereinafter referred to as the "LGOPC") (which expression shall, where the context so admits or requires, be deemed to include its successors and assigns) acting as a central purchasing body under the auspices of Kerry County Council with an address of Unit 9, Ground Floor, Building C, Reeks Gateway, Rock Road, Killarney, Co. Kerry, V93 KVK1 and an email address of eproc@kerrycoco.ie of the One Part.

AND

The "Economic Operator" (which expression shall, where the context so admits or requires, be deemed to include its successors and assigns) of the Other Part.

WHEREAS:

- A.** The LGOPC conducted a call for competition on www.etenders.gov.ie and in the Official Journal of the European Union inviting requests for tenders to participate in a Framework Agreement for Asbestos Removal and Disposal (hereinafter referred to as "the Framework Agreement") on behalf of the Contracting Authorities specified in Section 1.5 hereto (hereinafter referred to as "the Contracting Authorities").
- B.** The Economic Operator submitted a tender and, following an assessment by the LGOPC, the LGOPC wishes to admit the Economic Operator to the Framework Agreement.
- C.** The Economic Operator has agreed to be admitted to the Framework Agreement on the terms set out in this Framework Agreement.
- D.** The Economic Operator enters into this Framework Agreement by electronically accepting this Framework Agreement through www.supplygov.ie (hereinafter referred to as "Supplygov") by way of its personal Supplygov account (the formal acceptance of the terms of this Framework Agreement through Supplygov shall operate as if this Framework Agreement had been signed and/or sealed (and witnessed appropriately) by the parties and shall be construed accordingly for all legal purposes).
- E.** The admittance by the LGOPC of the Economic Operator to the Framework, subsequent to the acceptance by the Economic Operator of the terms of this Framework Agreement, shall operate as the acceptance by the LGOPC of the terms of this Framework Agreement and this Framework Agreement shall take effect from such date.
- F.** This Framework Agreement incorporates the Framework Agreement General Terms and Conditions specified in section 2.0 hereto (hereinafter referred to as "the Framework Agreement General Terms and Conditions").
- G.** Each obligation, warranty or representation of the Economic Operator under this Framework Agreement is undertaken and/or made for the benefit of both the LGOPC and the Contracting Authorities.

1.0 THE LGOPC AND THE ECONOMIC OPERATOR AGREE AS FOLLOWS:

1.1 SCOPE OF APPOINTMENT

- 1.1.1 This Framework Agreement governs the relationship between the LGOPC and the Economic Operator in respect of the terms and conditions applying to the participation of the Economic Operator in the Framework Agreement.
- 1.1.2 In consideration of the performance by the Economic Operator of its obligations under this Framework Agreement, the LGOPC appoints the Economic Operator to the Framework Agreement for the provision of Asbestos Removal and Disposal works (hereinafter collectively referred to as "the Works") to the Contracting Authorities when contracted to do so pursuant to the Framework.
- 1.1.3 The Contracting Authorities are entitled to use the Framework Agreement for the purpose of procuring the Works from Economic Operators who have been admitted to the Framework.
- 1.1.4 When a Contracting Authority wishes to acquire the Works pursuant to the Framework, it will do so by means of a Supplementary Request for Tender¹ (hereinafter referred to as "sRFT(s)") only.
- 1.1.5 Notwithstanding the entitlement of the Contracting Authorities to utilise the Framework, neither the LGOPC nor the Contracting Authorities give any assurances as to their level of engagement or expenditure through the Framework Agreement and the Economic Operator hereby acknowledges that it has not entered into this Framework Agreement on the basis of any such expectation. This Framework Agreement does not constitute a commitment from the Contracting Authorities to award contracts under the Framework Agreement (hereinafter referred to as "sRFT Contract(s)²) to the Economic Operator and the Contracting Authorities reserve the right to engage in separate procurement processes with Economic Operators outside of the Framework Agreement should they consider it appropriate to do so.

1.2 ENTIRE AGREEMENT

- 1.2.1 This Framework Agreement constitutes the entire agreement between the parties and contains all the terms which the parties have agreed with respect to its subject matter and shall prevail over and supersede all prior agreements, understandings, statements and communications between the Economic Operator, the LGOPC and the Contracting Authorities in relation to same. Without prejudice to the generality of the foregoing, this Framework Agreement shall apply to the exclusion of any terms and conditions which the Economic Operator may purport to apply.

1.3 FRAMEWORK TERM

- 1.3.1 The Framework Agreement shall take effect on the Effective Date³. This Framework Agreement shall be established for a term of four (4) years unless it is otherwise terminated in accordance with the provisions of this Framework Agreement.

1.4 LIMITATION ON LIABILITY

- 1.4.1 Notwithstanding that the LGOPC is: (a) acting as a Central Purchasing Body co-ordinating the establishment of the Framework; and (b) entering into this Framework Agreement with the Economic Operator, nothing within this Framework Agreement or the Tender Documents⁴ shall operate to bind the LGOPC to (or make them a party to) the terms and obligations of an sRFT Contract and the Economic Operator hereby indemnifies and holds harmless the LGOPC from any losses, damages, costs or claims arising from: (a) the failure of the Economic Operator to secure an sRFT Contract; and/or (b) any sRFT Contract entered into by the Economic Operator.

¹ Supplementary Request for Tender means a request for tender issued by a Contracting Authority to the Economic Operators admitted to the Framework Agreement via www.supplygov.ie.

² sRFT Contract means a contract for the Works entered into between an Economic Operator and a Contracting Authority following a Supplementary Request for Tender.

³ Means the date when the Framework Agreement becomes active.

⁴ Tender Documents mean the Instructions Document, the Agreement, the ESPD, Selection Criteria and the Bill of Quantities, associated Contract(s) and Forms to be completed.

1.5 THE CONTRACTING AUTHORITIES

1.5.1 The Contracting Authorities partaking in the Framework Agreement 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 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);
- Office of Public Works (OPW);
- The Irish Prison Service;
- The Irish Defence Forces;
- The Housing Agency.

2.0 GENERAL TERMS & CONDITIONS

2.1 GENERAL

- 2.1.1 The LGOPC is not bound by any anomalies, errors or omissions in the Tender Documents. The Economic Operator shall immediately notify the LGOPC if it becomes aware of any ambiguities, anomalies, errors or omissions in the Tender Documents and the LGOPC shall, upon receipt of such notification, notify all Economic Operators of its ruling in respect of same. Such ruling shall be issued in writing and may, at the LGOPC's discretion, form part of this Framework Agreement.

2.2 INTERPRETATION

- 2.2.1 If any term or provision in this Framework Agreement is held to be illegal or unenforceable, in whole or in part, such term or provision shall be deemed not to form part of this Framework Agreement and the enforceability of the remainder of this Framework Agreement shall not be affected.
- 2.2.2 Words importing the singular shall, where the context so requires, include the plural and vice versa.
- 2.2.3 Words of the masculine gender include the feminine and neuter genders and words denoting natural persons include where the context so requires corporations and firms and all such words shall, where appropriate, be construed interchangeably in that manner.
- 2.2.4 The headings and captions in this Framework Agreement are inserted for convenience of reference only and shall not be considered as part of or affect the construction or interpretation of this Framework Agreement.
- 2.2.5 Reference to a Statute or Act or a provision of a Statute or Act shall include any Statute or Act or provision of a Statute or Act amending, consolidating or replacing it for the time being in force.
- 2.2.6 Words denoting an obligation on a party to do any act, matter or thing shall include an obligation to procure that it be done and words placing a party under a restriction includes an obligation not to permit or allow infringement of the restriction.
- 2.2.7 The terms of this Framework Agreement shall be construed without regard to the rule of construction known as "ejusdem generis".
- 2.2.8 If any ambiguity or question of intent or interpretation arises, this Framework Agreement shall be construed as if drafted jointly by the Economic Operator and the LGOPC and no presumption or burden of proof shall arise favouring or disfavouring either party by virtue of the authorship of any of the provisions of this Framework Agreement.

2.3 LEGAL STATUS OF THE ECONOMIC OPERATOR – ASSIGNMENT AND/OR NOVATION

- 2.3.1 This Framework Agreement may be assigned or novated by the Economic Operator, subject to the granting of formal written consent to such assignment or novation by the LGOPC, to the legal successor of the Economic Operator where:
- a) the specific change was provided for in the procurement process for the award of this Framework Agreement; or
 - b) the change is as a result of corporate restructuring in a manner permitted under Regulation 72 of the Regulations.
- 2.3.2 The LGOPC may, prior to granting consent to such assignment or novation, require compliance by the succeeding Economic Operator with such conditions the LGOPC deems necessary including, but not limited to, requiring evidence that:
- a) the succeeding Economic Operator fulfils the qualifying criteria initially established by the procurement process for the award of this Framework Agreement;
 - b) the succeeding Economic Operator possesses the capability (technical or otherwise), resources and skills in respect of satisfying the requirements of this Framework Agreement and;
 - c) a formal change in legal status or corporate restructuring as permitted under sub-paragraphs 2.3.1 (b) herein has been lawfully undertaken.

- 2.3.3 The terms of this Framework Agreement shall govern any succeeding Economic Operator and the LGOPC may, at its discretion, direct the Economic Operator and the succeeding Economic Operator to execute a formal Deed of Assignment/Novation.
- 2.3.4 The LGOPC reserves the right to assign, novate or transfer this Framework Agreement to a third party without the consent of the Economic Operator.
- 2.3.5 Without prejudice to such additional circumstances where assignment is permissible under subparagraphs 2.3.1 (a) and (b) herein, assignment to the legal successor of the Economic Operator (subject to the granting of formal written consent to such assignment by the LGOPC) is permissible in the following circumstances:

Change of the Economic Operator's legal status from:

- (i) sole trader to corporation where general ownership and personnel remain the same;
- (ii) corporation to sole trader where general ownership and personnel remain the same;
- (iii) sole trader to partnership where general ownership and personnel remain the same;
- (iv) partnership to sole trader where general ownership and personnel remain the same;
- (v) corporation to partnership where general ownership and personnel remain the same;
- (vi) partnership to corporation where general ownership and personnel remain the same;
- (vii) sole trader to other related sole trader (for example, business transfer from father to son); or
- (viii) change of the Economic Operator's business name.

2.4 TERMINATION OF THE FRAMEWORK AGREEMENT

- 2.4.1 The LGOPC may, by written notice, terminate this Framework Agreement (without recompense to the Economic Operator) thus ending the participation of the Economic Operator in the Framework, in the following circumstances:
- if the Economic Operator breaches the terms of this Framework Agreement; or
 - if the provisions of Regulation 73 of the Regulations apply; or
 - if the Economic Operator falls within a relevant exclusion ground under Regulation 57 of the Regulations; or
 - if the Economic Operator fails to provide the requisite evidence of compliance with the declarations submitted in its ESPD following a request from the LGOPC and/or a Contracting Authority; or
 - if the Economic Operator fails to provide, to the LGOPC or the Contracting Authorities, renewed and updated self-declarations in accordance with Regulation 34 (24) of the Regulations; or
 - if any statement made by the Economic Operator in connection with the procedure by which this Framework Agreement was entered into was: (a) untrue when made or subsequently ceases to be true; or (b) was materially incorrect, inaccurate or misleading (whether intentionally so or not).
- 2.4.2 The LGOPC, acting in its sole discretion, may, by giving written notice, collapse the Framework Agreement and therefore end the Framework Agreements with all Economic Operators appointed thereto, without recompense to any Economic Operator, at any time during the term of the Framework Agreement.

2.5 SUBCONTRACTING

- 2.5.1 When responding to an sRFT where subcontractor(s) are proposed for completion of an sRFT Contract, the Economic Operator shall provide to the Contracting Authority (if requested): (a) the relevant details of the subcontractor(s); (b) an ESPD for the subcontractor(s); (c) evidence of the qualifications and experience of the subcontractor(s); and (d) such other information and documentation in relation to the subcontractor(s) as may be reasonably required by the Contracting Authority.

2.6 RELIANCE ON CAPACITY OF OTHER ENTITIES

- 2.6.1 Where an Economic Operator has relied on the capacities of other entities to satisfy the selection criteria for entry on to the Framework:

- it shall, upon request by the Contracting Authority, demonstrate to the Contracting Authority that it will have at its disposal the resources necessary by providing a written undertaking from that other entity, in terms satisfactory to the Contracting Authority and duly evidenced, confirming that the entity in question will place the necessary resources at the disposal of the Economic Operator;
- such entity must, when requested by the Contracting Authority, provide joint and several liability to the Contracting Authority for the performance and fulfilment of any sRFT Contracts (this may take the form of a guarantee, letter of reliance, such entity being a party to the sRFT Contract or other form of commitment as directed by the Contracting Authority).

2.6.2 An Economic Operator may only rely on the capacities of other entities where those entities will perform the works for which these capacities are required.

2.7 TAX COMPLIANCE

2.7.1 All payments under an sRFT Contract are conditional upon the Economic Operator (and its subcontractor(s) where appropriate) being tax compliant.

2.7.2 The Economic Operator (and its subcontractor(s) where appropriate) must comply with the following:

- at a minimum, the terms of the Department of Finance Circulars 43/2006 and 44/2006: Tax Clearance Procedures Public Sector Contracts (as may be amended, updated or re-published by the relevant body from time to time and as then apply at the time of the sRFT Contract); and
- such other requirements and directions that an individual Contracting Authority may impose in order to satisfy itself that the Economic Operator (and its subcontractor(s) where appropriate) is tax compliant.

2.8 EMPLOYEES

2.8.1 The Economic Operator (and its subcontractor(s) where appropriate) must comply with all legal requirements in relation to PAYE and PRSI and must ensure that the rates of pay and conditions of employment, including pension contributions: (a) comply with all applicable laws; and (b) are at least as favourable as those for the relevant category of worker in any sectoral employment orders, employment regulation orders or registered employment agreements.

2.9 ENVIRONMENTAL & SOCIAL CONSIDERATIONS

2.9.1 In the performance of an sRFT Contract, the Economic Operator and its subcontractor(s) (if applicable) shall comply with all applicable obligations in the field of environmental, social and labour law that apply at the place where the Works 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.

2.9.2 This Framework Agreement facilitates the inclusion of environmental and social considerations in the Award Criteria published at sRFT stage as set out in Section 5.0 hereunder.

2.10 STATUTORY OBLIGATIONS AND APPLICABLE LAW

2.10.1 This Framework Agreement shall be governed by and construed in accordance with the laws of Ireland and the courts of Ireland shall have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with same.

2.11 FREEDOM OF INFORMATION ACTS

2.11.1 The LGOPC and the Contracting Authorities are subject to the Freedom of Information Act, 2014 and the Economic Operator acknowledges that information provided in response to an sRFT may be considered confidential or commercially sensitive. The Economic Operator should consider if any information supplied by it in response to an sRFT, should not be disclosed because it is commercially sensitive or confidential and if this is the case, the Economic Operator should, when providing the information, identify same and specify the reasons for its commercial sensitivity or confidentiality. The LGOPC and the Contracting Authorities shall have regard to such statement but shall not be bound by it. If the Contracting Authority and/or the LGOPC, in their discretion, are satisfied that the information should be properly regarded as

being confidential or commercially sensitive, the information shall be kept confidential subject to the LGOPC's and/or the Contracting Authority's obligations under public procurement and Freedom of Information laws.

2.12 CANVASSING

- 2.12.1 Canvassing or any effort by the Economic Operator to influence the personnel and/or agents of the LGOPC and/or the Contracting Authorities in relation to the Framework Agreement or an sRFT may result in: (a) the disqualification of the Economic Operator by the LGOPC from the Framework; and/or (b) the disqualification of the Economic Operator by the Contracting Authority from the sRFT.
- 2.12.2 Where the Economic Operator has an existing relationship with personnel and/or agents of the LGOPC and/or the Contracting Authorities, it is advised that any discussions, correspondence or other communications with regards to the Framework Agreement and/or its sRFTs may be treated as canvassing.
- 2.12.3 In accordance with the Ethics in Public Office Act, 1995 (as amended), any money, gifts or other consideration furnished by an Economic Operator seeking to obtain an sRFT Contract or otherwise influence the Framework Agreement will be deemed to have been paid or given corruptly unless the contrary is proved.

2.13 CONFLICTS OF INTEREST AND REGISTRABLE INTEREST

- 2.13.1 Any actual or potential conflict of interest involving the Economic Operator and a Contracting Authority and/or the LGOPC must be disclosed by the Economic Operator as soon as it becomes apparent.
- 2.13.2 The LGOPC and/or the Contracting Authorities may investigate potential conflicts of interest with the Economic Operator where it deems it necessary for the proper and transparent administration of the Framework.
- 2.13.3 Where the LGOPC and/or the Contracting Authority determines a material conflict of interest arises it may, at its sole discretion, permit the situation to continue subject to the Economic Operator's satisfactory compliance with safeguards specified by the LGOPC and/or the Contracting Authority.
- 2.13.4 Where the LGOPC and/or the Contracting Authority determines a material conflict of interest arises and same can only be remedied by the exclusion of the Economic Operator from an sRFT and/or an sRFT Contract, the LGOPC and/or the Contracting Authority shall exclude the Economic Operator from same.
- 2.13.5 Any registrable interest (having the meaning prescribed by the Ethics in Public Office Act, 1995) involving the Economic Operator and the LGOPC and/or a Contracting Authority, must be fully disclosed to the LGOPC and/or the Contracting Authority immediately upon such information becoming known to the Economic Operator.

2.14 CONFIDENTIALITY

- 2.14.1 All documents and information in relation to the Framework Agreement and its application process provided to the Economic Operator by the LGOPC shall be treated as strictly confidential by the Economic Operator.

2.15 DATA PROTECTION

- 2.15.1 In this clause, "Data Protection Laws" means: (a) the Irish Data Protection Acts 1988 to 2018; (b) the General Data Protection Regulation (EU) 2016/679 ("GDPR"); and (c) any other applicable law or regulation relating to the processing of personal data and to privacy including (but not limited to) the E-Privacy Directive and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 ("E-Privacy Regulations") (as may be amended, updated or re-published by the relevant body from time to time and as then apply at the time of an sRFT Contract).
- 2.15.2 The Contracting Authorities and the LGOPC will each be an Independent 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 Economic Operator in response to this Framework Agreement and any sRFT.

- 2.15.3 The Economic Operator, as Data Controller in respect of any Personal Data provided by it, in its application to the Framework Agreement and in response to an sRFT, is required to confirm that all Data Subjects (where Data Subject has the meaning given under the Data Protection Laws) whose Personal Data is provided by the Economic Operator have consented to the processing of such Personal Data by the Economic Operator, the LGOPC, the Contracting Authorities, the evaluation teams and the operator of www.supplygov.ie (hereinafter referred to as "Supplygov") for the purpose of the participation of the Economic Operator in the Framework Agreement and/or an sRFT or that the Economic Operator otherwise has a legal basis for providing such Personal Data to the foregoing for the purpose of its participation in the Framework Agreement.
- 2.15.4 The Contracting Authorities and the LGOPC, each as an independent Data Controller, may process the Personal Data as follows:
- by the Contracting Authorities disclosing data (including Personal Data of the Economic Operator and/or their employees or other related third-party agents such as those persons' names, contact details, work experience etc.) to the LGOPC.
- 2.15.5 The Contracting Authorities, as an independent Data Controller, may share the Personal Data as follows:
- share such Personal Data with other bodies within the public and/or semi-state sectors that use the Supplygov service as required by this Framework Agreement. The list of such public and/or/semi-State bodies is maintained on Supplygov and is updated from time to time. In addition, such Personal Data may be shared with the Office of Government Procurement, the Local Government Management Agency and with other bodies as required under law.
- 2.15.6 The Contracting Authorities and the LGOPC shall enter into a Data Sharing Agreement, which shall govern the sharing of the Personal Data between them and their respective rights, obligations, and liability in relation to this.
- 2.15.7 The Economic Operator shall be individually responsible, as an independent Data Controller, for its own processing of the Personal Data and must fully comply with its obligations as a Data Controller under the Data Protection Laws in this regard.
- 2.15.8 Neither the Economic Operator nor the LGOPC shall be construed as a Data Processor (where Data Processor has the meaning given under the Data Protection Laws) in relation to the other, unless the conditions for processing of the Personal Data change so that one party processes Personal Data on behalf of and on the instructions of the other party.
- 2.15.9 The Economic Operator and the LGOPC shall not be construed as Joint Data Controllers (where Joint Data Controllers has the meaning given under the Data Protection Laws) unless the conditions for processing of the Personal Data change such that the parties in conjunction with one another jointly, in a collaborative fashion, determine the purposes and means of processing the Personal Data.
- 2.15.10 The Economic Operator will inform the LGOPC as soon as possible of any requests from Data Subjects regarding rectification or erasure of Personal Data included in a tender, or restriction of or objection to the processing of such Personal Data for the purposes set out herein. The Economic Operator shall, to the extent that such a request affects the processing of such Personal Data by the LGOPC, provide reasonable assistance to the LGOPC and or the Contracting Authorities to enable compliance with the Data Protection Laws. Notwithstanding the foregoing, the Economic Operator shall remain responsible itself for dealing with requests from Data Subjects in respect of Personal Data, to the extent that such requests are directed by the Data Subject to the Economic Operator (or any of its agents, employees or sub-contractors).
- 2.15.11 The Economic Operator shall notify the LGOPC immediately if the Economic Operator becomes aware of, or suspects: (i) any breach of this section; or (ii) a Personal Data breach which is likely to affect or invoke the LGOPC's obligations under the Data Protection Laws; or (iii) any situation or envisaged development that shall in any way influence, change or limit the processing of the Personal Data included in the tender for the purposes set out herein. The Economic Operator shall document all Personal Data breaches in accordance with the Data Protection Laws and fully co-operate with the LGOPC and/or the Contracting Authorities to ensure compliance with the Data Protection Laws. The Economic Operator shall use reasonable endeavours to mitigate any damage suffered by a Data Subject in these circumstances.
- 2.15.12 The Economic Operator hereby indemnifies the LGOPC and the Contracting Authorities against all claims, liabilities, costs, expenses, damages and losses suffered or incurred by the LGOPC and/or the Contracting Authorities arising out of or in connection with any breach by the Economic Operator (or any of its

employees/agents/sub-contractors) of any terms of this section, or its obligations under the Data Protection Laws, or any use by the Economic Operator of the Personal Data.

2.16 PUBLIC HEALTH

- 2.16.1 All works proposed under this Agreement must be capable of being undertaken in compliance with all Safety, Health and Welfare at work legislation and guidance including, but not limited to, public health advice and requirements, and any applicable public service standard operating procedures which have been put in place by the Government, Government Departments, State Agencies and/or construction industry representative bodies in response to a public health emergency.

2.17 CHILD PROTECTION & VETTING

- 2.17.1 Contractors Personnel shall strictly adhere to the Contracting Authorities child protection policy which will be included with the sRFT documents for the information of Contractors – if applicable.
- 2.17.2 Contractors Personnel may be subject to routine Garda Security Clearance procedures prior to being allowed entry onto certain sites, including but not limited to Local Authority, An Garda Síochána, Health Service Executive, Department of Defence and Department of Education sites. Co-operation with these procedures is mandatory.

2.18 PERFORMANCE BOND

- 2.18.1 Economic Operators, if requested to do so by a Contracting Authority, may be required to provide a Performance Bond prior to the award of an sRFT Contract.

2.19 BREXIT

- 2.19.1 It shall be the responsibility of the Economic Operator to fulfil the obligations under an sRFT Contract and where applicable, any Task Order notwithstanding any changes in circulars, law, regulations, taxation or duties or other restrictions which might arise as a result of the withdrawal of the United Kingdom from membership of the European Union.

3.0 EVIDENCE IN SUPPORT OF MINIMUM STANDARDS

3.1 INTRODUCTION

- 3.1.1 An Economic Operator may be required to provide supporting documentation to verify their status with respect to the minimum standards established for this Framework Agreement, as set out below. The supporting documentation must be provided within five working days when requested by the LGOPC and/or Contracting Authority. If the supporting documentation is not provided or is withheld or if there is a serious misrepresentation in supplying such supporting documentation, the LGOPC and/or the Contracting Authority may, at their discretion, exclude the Economic Operator from the sRFT and/or the Framework.

3.2 PROFESSIONAL AND TECHNICAL COMPETENCE REQUIREMENTS

3.2.1 Contractor and Project Supervisor For The Construction Stage (PSCS)

The evidence relating to the declaration made by the Economic Operator with its application, in respect of the Contractor and Project Supervisor for the Construction Stage (PSCS) Appointment, to be provided when requested is demonstrating compliance with relevant Health and Safety legislation.

3.2.2 Health and Safety Compliance Declaration – Contractor

The evidence relating to the declaration made by the Economic Operator with its application, in respect of Health and Safety Compliance - Contractor, to be provided when requested, is as follows:

- a) a copy of the Economic Operator's current general Health and Safety policy;
- b) an outline of the Economic Operator's management organisational structure with regard to allocation of duties, delegation of responsibilities, etc., in relation to Health and Safety;
- c) copies of standard forms used for method statements and risk assessments as part of the Economic Operator's duties under the Safety, Health and Welfare at Work Act, 2005;
- d) details of the Economic Operator's arrangements for continuing training of personnel in Health and Safety, including personnel who would be employed on the project;
- e) details of the Economic Operator's procedures for disseminating up-to-date developments on health and safety issues;
- f) details of the Economic Operator's arrangements for the co-ordination of information between the different contractors, suppliers and designers involved in a project; and
- g) details of the Economic Operator's methodology for the dissemination of health and safety information for the construction stage on this or equivalent projects.

3.2.3 Health and Safety Compliance Declaration - Project Supervisor For The Construction Stage (PSCS)

The evidence relating to the declaration made by the Economic Operator with its application, in respect of the Health and Safety Compliance - Project Supervisor for the Construction Stage (PSCS), to be provided when requested, is as follows:

- a) a copy of the Economic Operator's current general Health and Safety policy;
- b) an outline of the Economic Operator's management organisational structure with regard to allocation of duties, delegation of responsibilities, etc., in relation to Health and Safety;
- c) copies of standard forms used for method statements and risk assessments as part of the Economic Operator's duties under the Safety, Health and Welfare at Work Act, 2005;
- d) details of the Economic Operator's arrangements for continuing Health and Safety training of PSCS personnel, including personnel who would be employed on the project;
- e) details of the Economic Operator's procedures for disseminating up-to-date developments on health and safety issues;

- f) details of the Economic Operator’s arrangements for the co-ordination of information between the different contractors, suppliers and designers involved in a project; and
- g) details of the Economic Operator’s methodology for the dissemination of health and safety information for the construction stage on this or equivalent projects.

3.2.4 **Educational and Professional Qualifications (Management) – Health and Safety**

The evidence in respect of the Health and Safety Competence of Management Staff is for the Economic Operator to satisfy both **A** and **B** below:

A. To provide sufficient Management Staff with Health and Safety qualifications, training, and experience, relevant to the works anticipated to be completed under this Agreement by:

- (i) providing a Safe-T-Cert, or OHSAS 18001 Certification, or other equivalent independently certified health and safety management system with appropriate health and safety training and resources,

Or

(ii) providing the following details:

- the educational qualifications, professional qualifications (e.g. professionally qualified project managers, architects, engineers etc – with dates obtained), and experience in so far as they are relevant to health and safety, and/or
- the educational qualifications, professional qualifications (as above) with at least one member of the Economic Operator or its managerial staff who has experience in relation to projects of similar nature, size, and complexity.
- the curriculum vitae of the Economic Operator and its managerial staff in so far as they relate to health and safety training and/or experience and also the organisational structure of the firm; and
- having at least 8 hours annual (i.e. in-house or a CPD course) health and safety training relevant to the works anticipated to be completed under this Agreement.

B. To provide at least one (1) site manager/site agent, or equivalent, with Health and Safety qualifications, training, and experience, relevant to the works anticipated to be completed under this Agreement by:

- (i) providing a Safe-T-Cert, or OHSAS 18001 Certification, or other equivalent independently certified health and safety management system with appropriate health and safety training and resources,

Or

(ii) providing the following details:

- the educational qualifications, professional qualifications (e.g. professionally qualified project managers, engineers etc – with dates obtained), and experience in so far as they are relevant to health and safety, and/or
- the educational qualifications, professional qualifications (as above) and experience in so far as it is relevant to health and safety on projects of similar nature, size and complexity;
- the curriculum vitae in so far as they relate to health and safety training and/or experience; and
- having at least 8 hours annual (i.e. in-house or a CPD course) health and safety training relevant to the works anticipated to be completed under this Agreement.

3.2.5 **Educational and Professional Qualifications (Management) – Technical Capability**

The evidence in respect of the Technical Capability of Management Staff is for the Economic Operator to satisfy both **A** and **B** below:

- A.** To provide at least one (1) member of the managerial staff who holds a National Framework of Qualifications (NFQ) Level Seven (7) or higher, plus five (5) years' experience, or equivalent, in managing projects relevant to the works under this Agreement:

Note:

Equivalent managerial staff technical capability offered by the Economic Operator must include as a minimum an NFQ Level Six (6) qualification, plus eight (8) years' experience in managing projects relevant to the works under this Agreement.

- B.** To provide at least one (1) site manager/site agent, or equivalent, that holds a NFQ Level Six (6) or higher, plus five (5) years' experience, or equivalent, in managing projects relevant to the works under this Agreement.

Note:

Equivalence to an NFQ Level Six (6) or higher, plus five (5) years' experience, is a minimum of eight (8) years' experience in managing projects relevant to the works under this Agreement.

3.2.6 Educational and Professional Qualifications (Personnel) – Health and Safety Competence

The evidence in respect of the Health and Safety competence of personnel, relevant to the works anticipated to be completed under this Agreement is a Safe Pass Card, or equivalent and proof of basic asbestos awareness training for personnel.

3.3 FINANCIAL CONFIRMATORY NOTE

- 3.3.1 The evidence in support of this minimum standard is a signed completed Financial Confirmatory Note in the form published.

3.4 TECHNICAL EQUIPMENT AVAILABLE

- 3.4.1 The evidence in support of this minimum standard is a written statement listing the technical equipment available in order to carry out the works, as required by the Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations, 2006-2010.

3.5 TECHNICIANS OR TECHNICAL BODIES RESPONSIBLE FOR QUALITY CONTROL

- 3.5.1 The evidence in support of this minimum standard is a written statement naming the Technicians and Technical Bodies, particularly those involved in quality control.

4.0 GENERAL SPECIFICATION

4.1 GENERAL INTRODUCTION

4.1.1 The nature, scale and complexity of works targeted to be completed under this Framework Agreement and the technical specifications associated with it are set out hereunder.

4.2 LOT DESCRIPTION

4.2.1 Lotting Not Applicable to this Framework.

4.3 SCOPE OF WORKS

4.3.1 The works will address Asbestos Removal and Disposal within properties across the public service.

4.3.2 The works will take place within both residential and commercial environments.

4.3.3 The performance, materials and workmanship for Asbestos Removal and Disposal are set out in the General Specification herein.

4.3.4 All Asbestos Removal and Disposal shall be undertaken in compliance with the technical standards herein as detailed and any further technical requirements as set out in the sRFT. The technical requirements herein are non-specific.

4.3.5 Typical works at sRFT Stage may include;

- The completion of Asbestos work activities in accordance with Schedule 4 of the Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations;
- The completion of written Risk Assessment for work activities;
- The identification of Asbestos-Containing Materials;
- The development of a suitable plan of work prior to Asbestos Removal and Disposal works;
- Notifications to the Health and Safety Authority before commencement of asbestos work activities;
- Implementation of appropriate measures and control levels;
- Air Monitoring and Sampling;
- Issuing of "Site Clearance for Reoccupation";
- The collection, transportation, and disposal of Asbestos.

4.4 LEGISLATION, REGULATIONS, GUIDELINES AND CODES OF PRACTICE

4.4.1 The Economic Operator shall comply with all national and EU legislation, Guidelines and Codes of Practice that apply during the completion of the works. The Economic Operator shall ensure that, as a minimum, all aspects of the works shall not compromise the ventilation, air quality, humidity and quality of the living environment and comply with good industry practice, law and all necessary consents including, but not limited to the following:

General:

- Safety Health and Welfare at Work Act, 2005;
- Safety Health and Welfare at Work (Construction) Regulations, 2013;
- Safety Health and Welfare at Work (General Application) Regulations, 2007 – 2016 (as amended);
- Chemicals (Asbestos Articles) Regulations, 2011 (S.I. No. 248 of 2011);
- The Safety, Health & Welfare at Work (Exposure to Asbestos) (Amendment) Regulations, 2010 (S.I. No. 589 of 2010);
- The Safety, Health & Welfare at Work (Exposure to Asbestos) Regulations, 2006 (S.I. No. 386 of 2006);
- REACH Regulation (EC) No. 1907/2006 amended by Regulation (EC) No. 552/2009;
- Safety, Health and Welfare at Work (Chemical Agents) Regulations, 2001 (S.I. No. 619 of 2001);
- Safety Health and Welfare at Work (Carcinogens) Regulations, 2001 (S.I. No. 078 of 2001);

- The European Communities (Toxic and Dangerous Waste) Regulations, 1982;
- European Communities (Asbestos Waste) Regulations, 1990 and 1994;
- Waste Management (Shipment of Waste) Regulations SI 419/2007;
- Hazardous Waste Regulations, 1998;
- Trans-frontier Shipment of Waste Regulation, 2007;
- European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulations, 2011;
- Collection Permits Regulation, 2001 & Amendments;
- European Communities (Carriage of dangerous goods by road & use of transportable pressure equipment regulations, 2011 (S.I. No. 349 of 2011));
- The Construction Product Regulations, 2013;
- Waste Management Act, 1996 (as amended);
- The Air Pollution Act, 1987.
- Such further and/or new technical standards, legislation, regulations, byelaws, guidelines, and codes of practice relating to Asbestos Removal and Disposal that may be introduced or come into being during the term of the Framework.

4.4.2 In addition, all Economic Operators should familiarise themselves with the following Health & Safety Authority (HSA) Publications Practical Guidelines on Asbestos Containing Materials –

- a) Management and Abatement in relation to Asbestos containing materials
- b) Carriage of Asbestos Containing Materials (ACMs) by Road

4.4.3 The Economic Operator will be fully responsible for the quality of the works and their compliance with the technical requirements as set out in the Tender Documents.

4.4.4 The Economic Operator shall provide for complying with the above including all mandatory notifications and notices. Compliance with these regulations, standards and guidelines shall relate to those most up to date or reasonably foreseeable as being in force or published at the time of contract award.

4.4.5 The Economic Operator shall adhere to and ensure compliance with all relevant product manufacturer's instructions.

4.5 BUILDING CONTROL REGULATIONS

4.5.1 The Economic Operator shall ensure compliance with the Building Control Regulations, 1997 – 2020, including the requirements of the Building Control (Amendment) Regulations, 2014 and any further amendments to the Regulations having regard to:

- The minimum requirements for the design and construction of buildings as set out in the Building Regulations;
- Detailed Technical Guidance Documents showing how these requirements can be achieved in practice;
- Procedures set out in the Building Control Regulations for demonstrating compliance in respect of an individual building or works.

4.5.2 The Economic Operator shall comply with relevant Irish Standards and Guidance Documents having regard to the suite of technical guidance documents which accompany the Building Regulations:

- Part A – Structure.
- Part B – Fire Safety.
- Part C – Site Preparation and Resistance to Moisture.
- Part D – Materials and Workmanship.
- Part E – Sound.
- Part F – Ventilation.
- Part G – Hygiene.
- Part H – Drainage and Wastewater Disposal.

- Part J – Heat Producing Appliances.
- Part K - Stairways, Ladders, Ramps and Guards.
- Part L - Conservation of Fuel and Energy.
- Part M – Access and Use.

4.6 HEALTH AND SAFETY - GENERAL

- 4.6.1 The Economic Operator will be required to comply with the Safety, Health and Welfare at Work Act, 2005 and any other relevant Safety, Health and Welfare legislation including the requirement to have a Safety Statement.
- 4.6.2 The Economic Operator will also be required to comply with the Safety, Health and Welfare at Work (Construction) Regulations, 2013, particularly in relation to its appointment (as applicable) of the Contractor, Designer, Project Supervisor for the Construction Stage (PSCS), and the Project Supervisor for the Design Process (PSDP).
- 4.6.3 The competency of those to be appointed in a duty holder role⁵ will be assessed by the Client (the Contracting Authority) at sRFT Stage in accordance with the Safety, Health and Welfare at Work Act, 2005, the Safety, Health and Welfare at Work (Construction) Regulations, 2013 and any other relevant Safety, Health and Welfare legislation.
- 4.6.4 The LGOPC is not the “Client” for the purpose of Safety, Health and Welfare legislation and is not responsible for the appointment of any duty holder role.

4.7 INSURANCE

- 4.7.1 The Economic Operator’s insurance policies must specifically cover work associated with the removal and disposal of asbestos containing materials and have no exclusions in relation to this activity. The description of the activities of the insured must be unambiguous in setting out that works involving the removal and disposal of asbestos containing materials are part of the insured contractors core business activity.
- 4.7.2 The Economic Operator shall be liable for and shall indemnify the Contracting Authority for and in respect of all and any losses, claims, demands, damages or expenses which the Contracting Authority may suffer due to and arising directly because of the negligence, act or omission, breach of contract, breach of duty, wilful default or fraud of the Economic Operator and the Economic Operators Personnel.
- 4.7.3 The required insurances for an sRFT Contract shall be specified by the Contracting Authority in the sRFT or will be indemnified in the form of sRFT contract specified in the sRFT. Economic Operators do not need to have the insurances in place when making their application in response to a sRFT but will be required to put those insurances in place prior to the award of any contract should they be successful in a sRFT. The Contracting Authority will not be responsible for any cost incurred by Economic Operators in putting in place the required insurances.
- 4.7.4 No Economic Operator shall be awarded a contract under a sRFT unless satisfactory evidence of insurance is submitted prior to contract award by the Economic Operator’s insurance broker/company.
- 4.7.5 The onus is on the Economic Operator to advise the Contracting Authority when their insurance has lapsed or has been cancelled. All Economic Operators must notify the Contracting Authority of alterations, cancellations and confirm renewal of policies. Any failure to do so may result in immediate termination of an sRFT Contract and/or this Framework Agreement (thus ending the participation of the Economic Operator in the Framework).
- 4.7.6 Where required, limits for Professional Indemnity Insurance cover will vary depending on the nature of the contract. The actual level of professional indemnity insurance cover required for individual sRFT Contracts will be specified by the relevant Contracting Authority in the sRFT. This level will be determined after the Contracting Authority has conducted a risk assessment to identify the level of risk associated with a potential failure, delay, or error in the provision of the works associated with the specific sRFT Contract.
- 4.7.7 The required insurance cover will vary from contract to contract as will the style of insurance cover available to Economic Operators, particularly in relation to professional indemnity risks.

⁵ Roles applicable under the relevant Health and Safety legislation.

- 4.7.8 Economic Operators may be required to arrange Contractors All Risks Insurance as a requirement for an sRFT Contract. The successful Economic Operator will be required to include the Contracting Authority as joint insured and may be required to include a non-vitiating clause.
- 4.7.9 If an Economic Operator has a specific exclusion noted in its insurance policy, which restricts or prohibits its ability to carry out certain works under an sRFT Contract, the Contracting Authority may require the Economic Operator to undertake such measures which are necessary to obtain insurance in a manner satisfactory to the Contracting Authority. Failure by the Economic Operator to provide insurance in a manner satisfactory to the Contracting Authority in this regard, shall result in the Economic Operator being excluded from the sRFT Contract.

5.0 STAGE 2 - SUPPLEMENTARY REQUEST FOR TENDER

5.1 GENERAL

- 5.1.1 The Economic Operator may only submit:
- a response to an sRFT electronically via Supplygov (responses in any other form will not be accepted); and
 - one response to an sRFT.
- 5.1.2 All Economic Operators submitting a response to an sRFT will be informed of the outcome at the earliest reasonable opportunity following conclusion of the evaluation process.
- 5.1.3 Any costs incurred by the Economic Operator in responding to an sRFT or in the performance of an sRFT Contract or howsoever else arising from its general participation in the Framework Agreement shall be the Economic Operator's sole liability.

5.2 SUPPLEMENTARY REQUEST FOR TENDER PROCESS

- 5.2.1 Contracting Authorities may issue sRFTs for the purpose of awarding sRFT Contracts throughout the term of the Framework.
- 5.2.2 An sRFT will be issued electronically via Supplygov to all Economic Operators admitted to the Framework Agreement that have expressed an interest in receiving an sRFT for their selected regions.
- 5.2.3 The Economic Operator shall comply with all instructions and rules issued by the Contracting Authority in relation to the sRFT.
- 5.2.4 An sRFT will be evaluated in accordance with the provisions set out below.
- The sRFT will include:
- a) details in relation to the Contracting Authority's specific requirements in respect of the Works;
 - b) the instructions and rules of the Contracting Authority in relation to the sRFT ; and
 - c) the Contracting Authority's intention to award the sRFT Contract to:
 - a Preferred Tenderer only, or
 - where the sRFT Contract will be a PW-CF-11 Public Works Term Maintenance and Refurbishment Contract (or equivalent), a Preferred Tenderer and a specified number of substitute suppliers (which substitute suppliers will be placed on a substitution list ranked in descending order ascertained by reference to the total marks achieved by Economic Operators on their submissions in response to the sRFT).
- 5.2.5 Where the Contracting Authority indicates in the sRFT its intent to award the sRFT Contract to a Preferred Tenderer only, the Contracting Authority shall enter into an sRFT Contract with the Preferred Tenderer only.
- Preferred Tenderer with Substitutes for the PW-CF-11 Public Works Term Maintenance and Refurbishment Contract (or equivalent)**
- 5.2.6 Solely in circumstances where the sRFT Contract will be a PW-CF 11 Public Works Term Maintenance and Refurbishment Contract (or equivalent) and where the Contracting Authority indicates in the sRFT its intent to award the sRFT Contract to a Preferred Tenderer and a specified number of substitute suppliers, the Contracting Authority shall enter into sRFT Contracts with the Preferred Tenderer and each of the ranked substitutes.
- 5.2.7 Where, following an sRFT, the Contracting Authority has entered into sRFT Contracts with a Preferred Tenderer and substitute suppliers, the Contracting Authority shall, in the first instance, procure the Works by way of a Task Order from the Preferred Tenderer.
- 5.2.8 In circumstances where the Preferred Tenderer: (a) has confirmed to the Contracting Authority that it is unable or unwilling (through lack of capacity or otherwise) to provide the Works being the subject matter of a specific Task Order; or (b) is deemed by the Contracting Authority to be unable or unwilling (through change in circumstances, lack of capacity or otherwise) to provide the Works being the subject matter of a specific Task Order, then, and in those circumstances, the Contracting Authority may assign the specific

Task Order and procure the Works from the highest ranking substitute (beginning with the substitute ranked No. 1) then capable of fulfilling the specific Task Order.

5.3 AWARD CRITERIA – SUPPLEMENTARY REQUEST FOR TENDER

5.3.1 Tenders submitted in response to an sRFT will be evaluated in accordance with the Award Criteria outlined below.

5.3.2 The Economic Operator that achieves the highest Total Marks will be deemed to have submitted the most economically advantageous tender and identified as the Preferred Tenderer. The remaining Economic Operators will be ranked in descending order based on their Total Marks.

SUPPLEMENTARY REQUEST FOR TENDER AWARD CRITERIA				
CRITERION		WEIGHTING	MAXIMUM MARKS AVAILABLE	MINIMUM PASS THRESHOLD
1	Price (Total Cost)	20 – 100%	200 – 1,000	N/A
2	Quality	0 – 80%	0 - 800	40%
Total Marks		100%	1,000	N/A

- 5.3.3 In an sRFT, a Contracting Authority may, at its discretion:
- a) identify that the Award Criteria will be based on Price (Total Cost) only and divide the Price (Total Cost) Criteria into a number of sub-criteria; or
 - b) where Price (Total Cost) and Quality Criteria are used, divide the Price (Total Cost) criteria and Quality criteria into a number of sub-criteria.

In circumstances where sub-criteria are identified, the Contracting Authority shall specify the percentage weighting and associated marks applicable to each criterion/sub-criterion in the sRFT.

In circumstances where Quality criteria/sub-criteria are used in an sRFT, the Economic Operator shall be required to achieve a minimum pass threshold of 40% for each Quality criterion/sub-criterion adopted.

5.3.4 Price (Total Cost)

Total Cost criteria may comprise of one or more of the following:

- Costs relating to acquisition;
- Costs of use;
- Maintenance costs;
- End of life costs;
- Costs imputed to environmental externalities linked to the subject matter.

5.3.5 The Price (Total Cost) criteria referred to above may, where appropriate, be formulated more precisely by the Contracting Authority in the sRFT.

5.3.6 Marks for **Total Cost** will be allocated using the following formula:

$$\text{Price (Total Cost)} = \frac{\text{Lowest Total Cost}}{\text{Total Cost under evaluation}} \times \text{Maximum Marks Available}$$

5.3.7 Quality

Quality criteria may comprise of one or more of the following:

- Technical merit;

- Aesthetic and functional characteristics;
- Accessibility;
- Design for all users;
- Social characteristics;
- Environmental characteristics;
- Innovative characteristics;
- Trading and its conditions;
- Organisation, qualification, and experience of staff assigned to perform the Contract;
- After-sales service and technical assistance;
- Delivery conditions such as delivery date, delivery process and delivery period or period of completion.

5.3.8 The Quality criteria referred to above may, where appropriate, be formulated more precisely by the Contracting Authority in the sRFT.

5.3.9 The marking scale for Quality criteria is provided below:

RATING	GUIDANCE	MARKING SCALE
Excellent	A response with very few or no weaknesses that fully meets or exceeds requirements, and provides comprehensive, detailed, and convincing assurance that the Economic Operator will deliver to an excellent standard.	80% - 100 %
Very Good	A response that demonstrates real understanding of the requirements and assurance that the Economic Operator will deliver to a good or high standard.	60% - 79 %
Good	A response which demonstrates a reasonable understanding of requirements and gives reasonable assurance of delivery to an adequate standard but does not provide sufficiently convincing assurance to award a higher mark.	40% - 59 %
Fair	A response where reservations exist. Lacks full credibility/convincing detail, and there is a significant risk that the response will not be successful.	20% - 39 %
Poor	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.	1% - 19 %
No Evidence	Response not submitted or response completely fails to address the criterion under consideration.	0%

5.3.10 In the event of a tie in an sRFT that includes both quality and cost criteria, the following tie-break approach may, at the discretion of the Contracting Authority, be adopted:

- The Economic Operator who was awarded the highest overall mark for the Quality Award Criteria of its tender will be deemed to have submitted the most economically advantageous tender;
- In circumstances where the tie-break approach in Par. (i) does not identify the most economically advantageous tender, the Economic Operator who was awarded the highest overall mark for the specific Quality Award Criterion with the largest weighting will be deemed to have submitted the most economically advantageous tender (in circumstances where this approach does not identify the most economically advantageous tender, the approach will continue to be applied to each of the Qualitative Award Criteria in descending order of weighting);

- (iii) In circumstances where the tie-break approach in Par. (ii) does not identify the most economically advantageous tender, the Economic Operator who was awarded the highest overall mark for the specific Quality Award Criterion which was listed first in the sRFT will be deemed to have submitted the most economically advantageous tender (in circumstances where this approach does not identify the most economically advantageous tender the approach will continue to be applied to each of the specific Quality Award Criterion in the order they were listed in the sRFT);
- (iv) In circumstances where the tie-break approach in Par. (iii) does not identify the most economically advantageous tender, the Contract Authority, may, at its discretion either:
 - re-issue the sRFT to all Economic operators; or
 - award the sRFT Contract to one of the tied Economic Operators by random selection concluded in an open and transparent manner; or
 - ask the tied Economic Operators to resubmit prices and continue this process until there is a winner; or
 - implement such other open and transparent tie break approach as it deems appropriate.

5.3.11 The Contracting Authority is not bound to adopt the tie break approach outlined above and may adopt in the first instance such other open and transparent tie break approach as it deems appropriate.

5.3.12 In the event of a tie in an sRFT that includes price (Total Cost) criteria **only**, the Contracting Authority may, at its discretion, either:

- award the sRFT Contract to one of the tied Economic Operators by random selection concluded in an open and transparent manner; or
- re-issue the sRFT to all Economic Operators; or
- ask the tied Economic Operators to resubmit prices and continue this process until there is a winner.

5.3.13 Where, following an evaluation but prior to the award of an sRFT Contract, the Preferred Tenderer is:

- deemed by the Contracting Authority to be unable or unsuitable to carry out the Works due to a change in circumstances; or
- by its own admission, is unable or unwilling to carry out the Works,

then the Contracting Authority may award the sRFT Contract to the tenderer ranked next highest and may repeat this process until the sRFT Contract is awarded.

5.4 INFORMATION/ DOCUMENTATION TO BE PROVIDED PRIOR TO CONTRACT AWARD

5.4.1 In addition to the information and documentation to be provided when submitting a response to a sRFT, successful Economic Operators may be required to provide to the Contracting Authority for their review and approval, prior to formal award of the contract (if not already submitted), the specific information and/or documentation listed below or any such relevant information and/or documentation as requested by the Contracting Authority.

- Information as required by the Safety, Health and Welfare at Work (Exposure to Asbestos) Regulations, 2006-2010, Regulation 16 and Schedule 4;
- Confirmation and associated evidence of, up to date accredited training for the individual employee or third party fulfilling the role of Project Supervisor Construction Stage (PSCS), specifically in relation to asbestos removal works;
- A copy of the current company training register indicating the full list of training undertaken by each employee, including information on dates, certification of training and training provider, duration etc;
- Details of third parties employed in the completion of works projects, e.g. external testing houses, environmental monitoring contractors, independent analysts, etc;
- Details of the proposed authorised collection and transport contractor for asbestos containing materials including relevant waste collection permit number(s);

- Details of any proposed authorised company undertaking the disposal of asbestos containing materials on behalf of the contractor, including details of the permit/licence authorising same;
- A detailed register of all equipment, relevant to the work type in the ownership of the contractor;
- An Appendix of Performance and service/calibration/maintenance history for each item of equipment cross referenced with the equipment register;
- Details of certified RPE and PPE used by the contractor including copies of current Face Fit Certificates for RPE Construction Product Regulations – up to three (3) no. examples may be requested;
- A copy of the register of issue and confirmation of acceptance by employees for this RPE/PPE – up to three (3) no. examples may be requested, any other details specified in the sRFT consistent with the terms and conditions of the Agreement;
- Updated confirmation that the Economic Operator complies with the requirements of Regulation 57 of the European Union (Award of Public Authority Contracts) Regulations, 2016 (SI 284 of 2016);
- Confirmation that any Subcontractor/Specialist proposed for completion of the works complies with the requirements of Regulation 57 of the European Union (Award of Public Authority Contracts) Regulations, 2016 (SI 284 of 2016) by providing an ESPD or equivalent;
- Information in relation to compliance with relevant Sectoral Employment Orders;
- The Economic Operator's Tax Clearance Access Number and Tax Reference Number to facilitate online verification of the Economic Operator's tax status. By supplying the aforementioned numbers, the successful Economic Operator acknowledges and agrees that the Contracting Authority has the permission of the successful Economic Operator to verify its tax clearance position online;
- Subcontractors engaged at sRFT stage are required to produce an in-date (not older than 30 days) Notification of Determination to the Contracting Authority or the Economic Operator, before any contract is awarded;
- Satisfactory evidence of insurance in accordance with the minimum standards referenced in the tender documents or as outlined in the sRFT;
- The Economic Operator's Safety Statement or equivalent document may be assessed for compliance with the provisions set out in the Safety, Health & Welfare at Work Act, 2005 and enforcing Regulations;
- Agreement to the use of specific electronic tools where appropriate;
- Appointment and acceptance of duty holder role(s), where appropriate, as outlined in the Safety Health & Welfare at Work (Construction) Regulations, 2013;
- SOLAS Safepass Cards for all Contractors Personnel and where appropriate to the works required in the sRFT, Construction Skills Certification Scheme ("CSCS") cards or equivalent;
- Site Specific Risk Assessment, if applicable;
- Site Specific Method Statement, if applicable;
- The Economic Operator's Waste Management Plan (WMP) for the management of all waste arising on site, if applicable;
- Performance Bond (if applicable);
- Any other details specified in the sRFT consistent with the terms and conditions of the Agreement.

Note: Element(s) of the aforementioned information and/or documentation may, at the discretion of the Contracting Authority, form part of the contract award criteria for an sRFT.

5.4.2 In addition to the information and/or documentation to be provided when submitting a response to an sRFT, the Preferred Tenderer and, if applicable, the substitute(s) shall provide to the Contracting Authority for its review and approval, prior to the formal award of an sRFT Contract, the information and/or documentation requested by the Contracting Authority.

5.4.3 The Contracting Authority is not obliged to accept from the Economic Operator any information and/or documentation that it reasonably considers to be insufficient or otherwise unsatisfactory or does not meet the requirements of this Agreement or the sRFT.

5.5 SRFT CONTRACT

5.5.1 If, following an sRFT, the Economic Operator is awarded an sRFT Contract (either as the Preferred Tenderer or a substitute), the Economic Operator will enter into an sRFT Contract with the Contracting Authority. The sRFT Contract to be entered into shall, at the discretion of the Contracting Authority, be one of the following:

- PW-CF6 Short Public Works Contract, or;
- PW-CF5 Public Works Contract Minor Building & Civil Engineering Works Designed by the Employer, or;
- PW-CF11 Public Works Term Maintenance and Refurbishment Contract, or;
- Other applicable Capital Works Management Framework Contracts for Public Works; or
- Approved equivalent as identified in the relevant sRFT.

5.6 NOTICE OF ADDENDA

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