**INSTRUCTIONS DOCUMENT**

**FOR**

**REQUEST FOR APPLICATIONS**

**FOR**

**APPOINTMENT TO A MULTI-PARTY FRAMEWORK**

**FOR**

**ASBESTOS REMOVAL & DISPOSAL CONTRACTORS FOR**

**THE HEALTH SERVICE EXECUTIVE (HSE)**

|  |  |
| --- | --- |
| **CLOSING DAY:** | **FRIDAY** |
| **CLOSING DATE:** | **03RD OF MARCH 2017** |
| **CLOSING TIME:** | **15.00** |
| **DATED ISSUED:** | **20TH OF JANUARY 2017** |

Applications must be submitted via the Tender Box facility on **www.etenders.gov.ie** no **later than 15:00hrs on Friday 03rd of March 2017**

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# INTRODUCTION

## General

### The Health Service Executive (“HSE”) is coordinating the establishment of a Framework (the “**Framework**”) of Asbestos Removal and Disposal Contractors for its sole use.

### The HSE is the only contracting authority that will avail of this Framework (the “**Contracting Authority**”).

### It is anticipated that the Framework will commence in **Quarter 2 2017** and that the term of the Framework will be for **24 months** from establishment, with an option to the HSE of an extension of a further two **12 month periods**.

### The HSE invites Applications from contractors (“**Applicants**”) who wish to be considered for admittance to the *HSE Framework Agreement for Asbestos Removal and Disposal Contractors*”)*.*

### The Applicants that are admitted to the Framework (the “**Contractors**” or “**Framework Contractors**”) will be invited to participate in Mini-Competitions by the HSE.

### All information relating to this Framework, including instructions, clarifications and changes, is being published on the Irish Government's eTenders website **(**[**www.etenders.gov.ie**](http://www.etenders.gov.ie)) only.

### **Appendix 2** of this Instructions Document contains a glossary of terms.  Unless the context otherwise requires/capitalized terms have the meaning given in the glossary of terms.

### Contracts awarded under the Framework Agreement at Mini Competition stage will be awarded on the basis of most economically advantageous tender, identified on the basis of price only. Details are set out hereunder in part 4.0 of this Instructions Document.

# INSTRUCTIONS TO APPLICANTS

## General

### The appointment to this Framework is being made by a process of competitive tender using the Open Procedure. The regulatory Framework applicable to the Application process comprises Directive 2014/24/EU of the European Parliament and of the Council, on public procurement and repealing Directive 2004/18/EC, implemented into Irish law by European Union (Award of Public Authority Contracts) Regulations 2016, S.I. No. 284 of 2016.

### If an Applicant becomes aware of any ambiguity, discrepancy, error or omission in or between these documents, it must immediately notify the HSE, even after the deadline for admittance to the Framework.

### Notification of a modification to this Instructions Document shall be issued at least **six days (6)** prior to the Closing Deadline indicated on **www.etenders.gov.ie** and shall be issued as an addendum to, and shall be deemed to constitute part of, the Request for Applications. If necessary, the HSE will extend the Closing Deadline in order to comply with this requirement.

### Applications for admittance to the Framework will be assessed in accordance with the criteria set out in Part 3.0 hereunder. If an Application for admittance to the Framework is successful, the Applicant will be invited to enter into the Framework Agreement by formally signing the *HSE Framework Agreement for Asbestos Removal and Disposal Contractors* - a copy can be viewed at **www.etenders.gov.ie.**

### Any works subsequently carried out by the Applicant for the HSE at Mini Competition stage will be carried out under GCCC contract [PW-CF6 – Public Works Short Form of Contract](http://constructionprocurement.gov.ie/contracts/), or PW CF 05 – Contract for Minor Building & Civil Works Designed by the Employer or approved equivalent.

### This competition supersedes and replaces all previous documentation, communications and correspondence between the HSE and Applicants in relation to the subject matter of this competition, and Applicants should place no reliance on such previous documentation and correspondence.

## Applications to the Framework

### Applicants should study the contents of this Instructions Document carefully, including the information and documents contained in the Appendices and include all of the requested information in their applications.

### The HSE will not accept responsibility for information relayed (or not relayed) via third parties.

### If the Applicant alters or edits these Instructions, that Application may be deemed non-compliant and may be rejected.

### Applicants shall submit one application in response to this competition, multiple applications are not permitted.

### Each Applicant’s costs will be their sole liability. The HSE has no obligation to reimburse the Applicant in respect of costs incurred by it in the preparation of its Application or otherwise as a result of its participation in the process, whatsoever or howsoever arising.

## Typical Works

### Typical works to be completed under this Framework are as described in the Pricing Document.

### Works will arise as part of programmed works associated with the removal and disposal of Asbestos Containing Materials (ACM) within defined areas of the various corporate estates for which the HSE are responsible.

### All works will be undertaken in compliance with the legislative requirements, best practice guidelines andthe technical requirements that apply to the Mini Competition stage as detailed in **Schedule 1-4** of the Framework Agreement.

## Submission of Applications

### Applicants are required to complete and submit all information prior to the Closing Deadline as requested in the“Tender Submissions Checklist” included with the tender documents.

### Applications must be submitted via the Tender Box facility on **www.etenders.gov.ie.** **no later than 15:00hrs on Friday 03rd of March 2017** (” the Closing Deadline”).

## Format of Submissions

### The tender shall be submitted via the tender box facility on **www.etenders.gov.ie.**

## Price

### A fully completed Form of Tender & Pricing Document is required as part of the Application.

### Applicants will be awarded a place on the Framework based on the competitiveness of their overall lump sum price for completion of the notional works described in the Pricing Document.

### **Prices**

1. Prices tendered on the Closing Deadline, **Friday 03rd of March 2017**, will be used for the purpose of the Framework Evaluation process.
2. Applicants must provide a maximum daily rate for site supervision “ceiling rate” and include this rate in the preliminaries section of the Pricing Document.
3. This ceiling rate will establish the maximum daily rate for adequate site supervision (ref sections 3.4a and 3.4b of the Suitability Assessment Questionnaire (QW2)) that may be proposed at Mini-Competition stage. Contractors who submit responses to a Mini-Competition may reduce the maximum daily rate submitted in this Form of Tender but may not exceed the rate.
4. This ceiling rate is referenced in section 3.4 of the *HSE Framework Agreement for Asbestos Removal and Disposal Contractors* and shall be fixed as the maximum rate applying over the initial two-year term of the Framework only.
5. Tender prices shall be in Euro (€) and all prices must be exclusive of VAT.

## European Single Procurement Document

### Submission of a European Single Procurement Document (ESPD) for this competition is optional – if an Applicant intends to submit an ESPD, it should adhere to the instructions below.

### In accordance with Regulation 59 of the European Union (Award of Public Authority Contracts) Regulations 2016, LGOPC must accept an ESPD as preliminary evidence confirming that the Applicant fulfils the following conditions-:

1. it is not in one or more of the situations referred to in Regulation 57 in which an economic operator shall or may be excluded; and
2. it meets the relevant criteria for qualitative selection as defined more explicitly in the Selection Criteria for admission to the Framework.

### The information that Applicants must include in the ESPD is set out in the tender documents. Potential Applicants must examine this information carefully in view of their participation and possible submission of an ESPD. If an Applicant proposes to submit an ESPD and it is relying on the capacities of one or more other entities, those entities must also each submit an ESPD setting out the relevant information for the respective entity. In addition, where a group of economic operators, including temporary associations, participate together in this competition and they intend to submit an ESPD, a separate ESPD setting out the information required under Parts II to V of the ESPD form must be submitted for each of the participating economic operators.

### The completed ESPD shall be submitted via the tender box facility on **www.etenders.gov.ie.**

## Termination from the Framework

### An Applicant may be terminated from the Framework pursuant to the terms of the *HSE Framework Agreement for Asbestos Removal and Disposal Contractors* contract.

### The Framework may be terminated at any time during the **24-month** period noted and/or during any extension period if applicable, at the sole and absolute discretion of the HSE.

## Communications and Clarifications

### It is mandatory that all Applicants provide an email address for receiving correspondence during the Evaluation Period and also for the Mini-Competitions. Please complete the relevant section within the Form of Tender.

### All Mini-Competitions will be conducted through [www.supplygov.ie](http://www.supplygov.ie).

### All queries from Applicants in relation to the requirements of this Request for Applications shall be submitted online only through [**www.etenders.gov.ie**](http://www.etenders.gov.ie) no later than **10 days** prior to the deadline for the receipt of Applications.

### The HSE will endeavor to respond to all reasonable queries received without delay but, in any case, no later than **6 days** prior to the deadline for the receipt of Applications, but does not undertake to respond to all queries received.

### Subject to Paragraph 2.9.6, the query and the HSE’s subsequent response will, where appropriate, be communicated to all Applicants, without disclosing the name of the Applicant who initiated the query.

### If an Applicant 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. If the HSE, in its absolute discretion, is satisfied that the query and/or its response should be properly regarded as confidential or commercially sensitive, the nature of the query and its response shall be kept confidential, subject to any obligations under law.

### During the Evaluation Period, clarification of submitted content may be sought via e-mail from Applicants. Response to requests for clarification may not materially change any of the elements of the submitted Application.

### Where the HSE requests clarification, or further information on any matters relating to the Application or supporting documentation, such information shall be submitted no later than the deadline specified in the request.

### It is the responsibility of the Applicant to ensure that they fully understand the requirements of these instructions. Where an Applicant does not fully understand the requirements, the query should be submitted on[**www.etenders.gov.ie**](http://www.etenders.gov.ie)**,** pursuant to paragraph 2.9.3 above.

### If an Applicant fails to comply in any way with the requirements of this Instructions Document, the HSE may disqualify the Applicant concerned and reject its Application. Without prejudice to this right, the HSE may seek clarification or further information from the Applicant (that does not materially alter its Application) or take any other step permitted by law.

## Framework Breakdown

### Works to be completed under this Framework will be completed on behalf of the HSE.

### The twenty (20) highest ranking Contractors will be admitted to the Framework.

### In order to secure a place on the Framework, Contractors will be assessed against the Selection criteria and ranked on the basis of most economically advantageous tender, identified on the basis of price as set out in part 3.0 of these Instructions.

### The HSE will, as works arise, conduct Mini Competitions between the Framework Contractors for the award of a Mini-Competition Contract.

# THE SETTING UP AND OPERATION OF THE FRAMEWORK

## Framework Evaluation Criteria

3.1.1 Applications will be evaluated by the HSE in the following order for admittance onto the Framework.

|  |  |
| --- | --- |
| ***No*** | ***Stage*** |
| **1** | **Compliance Check**  |
| **2** | **Suitability Assessment** Applicants must satisfy the specific requirements listed in the Suitability Assessment Questionnaire QW2 and associated Supplements and Appendices, including any additional requested information. |
| **3** | **Tender Award*** **Form of Tender (FOT)**

Applicants must submit, a fully completed, signed and dated Form of Tender (FOT)* **Pricing Document (PD)**

Applicants must submit, a fully completed, signed and dated Pricing Document (PD) |

## Compliance Check (Stage 1)

### In the first instance, Applications will be checked to determine whether they are fully complete and include all information required.

### Applications passing the Compliance Check will then proceed to Suitability Assessment in accordance with the Minimum Suitability Criteria set out hereunder for the competition.

## Minimum Suitability Criteria (Stage 2)

### Minimum Suitability Criteria

|  |  |
| --- | --- |
| **Minimum Suitability Criteria** | **Weighting** |
| ***Suitability Assessment Questionnaire (SAQ)*** Applications must satisfy the specific requirements listed in the Suitability Assessment Questionnaire QW2 and associated Supplements and Appendices, including any additional requested information. | **Pass/Fail** |

## Tender Award (Stage 3)

### All Applicants that meet the Minimum Suitability Criteria will be ranked in terms of the following award criteria established for admittance to the Framework:

|  |  |
| --- | --- |
| ***Award Criteria*** | ***Weighting*** |
| Price | **100% (1,000 marks)** |

### In order to secure a place on the Framework, Applicants will be assessed on price based on the lump sum price submitted in the Form of Tender, and ranked as follows:

* The Applicant with the lowest price for evaluation purposes shall be awarded 100% of the 1,000 marks available under this criterion and shall be awarded position 1 on the Framework.
* All other Applicants will receive marks in proportion to the difference between the tender with the lowest price for evaluation purposes and their tender, and these marks will determine the Applicants ranking as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **1,000 X** | **Lowest Tendered Price** | **=** | **Applicant’s Mark for Ranking Purposes** |
| **Tender Price being Evaluated** |

### Only the **twenty (20)** highest ranking Applicants will be admitted to the Framework.

## General

### Applicants will be notified in writing of the outcome of the evaluation.

### Following the expiry of a standstill period, reference section 5.13 of these Instructions, successful Applicants will be invited to enter into the Framework Agreement by formally signing and returning the *HSE Framework Agreement for Asbestos Removal and Disposal Contractors,* a copy can be viewed at **www.etenders.gov.ie.**

### No amendments to the Framework Agreement will be accepted or negotiated. Should a successful Applicant fail to enter into a Framework Agreement in the required form, within the specified time period, the Applicant may not be appointed to the Framework. The Framework Agreement includes the terms and conditions of any Mini-Competition Contract awarded to members of the Framework under the Agreement.

### The appointment of the successful Applicant to the Framework does not constitute a commitment or guarantee from the HSE to purchase or procure works from the Applicant and does not confer any exclusivity on the appointed Applicant. The HSE reserves the right to carry out separate procurement processes for supplies or services/works described in this competition from any contractor outside of the Framework, should they, at their sole discretion, consider it appropriate to do so.

### Successful Applicants will be required to comply with the Safety, Health and Welfare at Work Act 2005 and any subsequent Safety, Health and Welfare legislation, including the Safety, Health and Welfare at Work (General Application) Regulations 2007 and the Safety, Health and Welfare at Work (Construction) Regulations 2013.

### If an Applicant is successful in being appointed to a position on the Framework Agreement, they must register on www.supplygov.ie, if not already registered.

# MINI-COMPETITIONS

## General

### Under this Framework, the HSE will award contracts by Mini-Competition only.

### **Only Contractors included on the Framework will be invited to tender for Mini Competitions**.

### The HSE shall issue the Mini-Competition to all Contractors appointed to the Framework via the [www.supplygov.ie](http://www.supplygov.ie) system.

### Contractors listed on the Framework may only submit one tender in response to a Mini-Competition Request for Tender.

### Contractors shall comply with any procedures, processes, time limits, instructions or other requirements as issued by the HSE in relation to the Mini-Competition and shall bear any and all costs associated therewith. Contractors shall be required to meet the requirements as published for each Contract and to complete or submit all other information as requested prior to the award of any contract.

## Mini-Competition – Contract Evaluation Criteria

### Contractors should note that a detailed **site specific** questionnaire may be included at Mini-Competition stage for the purposes of assessing compliance with health and safety criterion; this will be in addition to the information requested at Framework application stage.

### In all instances submissions at Mini-Competition stage shall be assessed against the following minimum suitability criteria:

|  |  |
| --- | --- |
| ***Mini Competition – Minimum Suitability Criteria***  | ***Weighting*** |
| **Proposed Project Team and Availability**Provide confirmation in writing on company headed paper that the Contractor has the required resources available to complete the Asbestos Removal & Disposal works within the specified timeframe, respecting the nominated start and finish date outlined in the Request for Tender documents. | **Pass/Fail** |
| **Details of Service Providers Proposed Project Team**Provide details of the staff assigned to perform the contract in the form of an Organogram of the Project Team | **Pass/Fail** |
| **Additional Information & Evidence**Provide confirmation in writing on company headed paper that the Contractor can provide the information and/or evidence detailed in paragraphs i) to xi) of Section 2.1 of Schedule 2 – Technical Requirements included in the Framework Agreement, when requested to do so by the HSE prior to the award of the contract. | **Pass/Fail** |
| **Site Specific Requirements**Provide confirmation in writing on company headed paper that the Contractor can meet the site specific requirements detailed in the Mini Competition Request For Tender. | **Pass/Fail** |
| **Safety Statement**The company’s Safety Statement or equivalent document submitted at Framework application stage will be assessed for compliance with the provisions set out in the Safety, Health & Welfare at Work Act 2005 and enforcing Regulations. | **Pass/Fail** |
| **Project Supervisor for the Construction Stage (PSCS)**Upload confirmation in writing on company headed paper that the Contractor has examined the preliminary Safety & Health Plan issued with the Mini-Competition, and agrees prior to the award of the Contract, to -:* be appointed in writing as PSCS for the works as specified by the Safety, Health and Welfare at Work (Construction) Regulations 2013
* confirm acceptance of the PSCS role in writing
* prepare the Construction Stage Safety & Health Plan for the works that shall demonstrate an effective means of ensuring the implementation of the plan by the PSCS
* comply with his/her obligations in regard to notifying the Health & Safety Authority
* confirm identity of the competent person carrying out the role of PSCS
 | **Pass/Fail** |

## Mini Competition - Award Criteria

### 4.3.1 Contractors that satisfy the Mini Competition Contract Evaluation criteria will be assessed in accordance with the award criteria set out below. Contractors shall be awarded works at Mini Competition in accordance with the following criteria:

|  |  |
| --- | --- |
| ***Award Criteria for Mini Competitions***  | ***Percentage Weighting*** |
| Price | **100%** |
| **Subject to compliance with the following criteria:** The ceiling rate provided in the Form of Tender will establish the maximum daily rate for adequate site supervision, (ref sections 3.4a and 3.4b of the Suitability Assessment Questionnaire) that may be proposed at Mini Competition stage. Contractors who submit responses to a Mini Competition may reduce the maximum daily rate submitted in the Form of Tender but may not exceed the rate. This ceiling rate shall be fixed as the maximum rate applying over the initial two-year term of the Framework only. |

### 4.3.2 In instances where two or more Contractors are equally ranked the HSE reserves the right to either;

* Ask the equally ranked Contractors to resubmit prices and continue this process until there is a clear winner, **Or**
* To divide the tender between the equally ranked Contractors, if two or less, **Or**
* Re-tender the Mini-Competition

### The acknowledgement of receipt of any Mini-Competition Tender shall not constitute an actual or implied agreement between the Contractor and the HSE.

### It is intended that Contractors performance at Mini Competition stage will be monitored. Where any Contractors fail to perform satisfactorily at Mini Competition the Contract may be terminated and the Contractor may be eliminated from the Framework. Please refer to Section 4, Framework Rules - Performance Review, Termination & Promotion, within the *HSE Framework Agreement for Asbestos Removal and Disposal Contractors* for full details of contract and performance review mechanisms.

# GENERAL INFORMATION

## Disclaimer

### The information provided in this Instructions Document is offered in good faith for the guidance of the Applicants participating in this competition. This Instructions Document is provided for information purposes only. No part of these Instructions, in whole or in part, may be reproduced, stored, transmitted, or used without the prior written permission of HSE (which may be withheld in its sole discretion).

### This Instruction Document provides a summary of available information and no reliance shall be placed on any information or statements contained herein, and no representation or warranty, express or implied, is or shall be made in relation to the completeness, accuracy or functioning of the information contained in this Instructions Document, nor as to the reasonableness of any assumption made in preparing this information. Without prejudice to the foregoing, the HSE, their advisers, consultants, contractors, servants and/or agents shall not have any liability or responsibility in relation to the accuracy, adequacy or completeness of such information or any statements made. For the avoidance of doubt, Applicants should not assume that any such information or statements shall remain unchanged.

### The HSE are not bound by any anomalies, errors or omissions in this Instructions Document. Applicants shall immediately notify the HSE should they become aware of any ambiguity, discrepancy, error or omission, even if the deadline specified in Paragraph 2.1.4 has passed. The HSE shall, upon receipt of such notification, notify all Applicants of its ruling in respect of any such ambiguity, discrepancy, error or omission. Such ruling shall be issued in writing and may at the HSE’s sole discretion form part of the Framework Agreement.

### The HSE reserves the right to update, delete, vary, extend or alter this Instructions Document and the information and documents contained herein at any time by notice by email to Applicants.

### Where the HSE requests clarification, or further information on any matters relating to the Application, or supporting documentation, such information shall be submitted no later than the deadline specified in the request.

### By participating in this competition, the Applicant acknowledges that there is no contractual, implied or quasi-contractual relationship, between the HSE and the Applicant prior to the execution of the Framework Agreement. Furthermore, the Applicant acknowledges that there is no contractual, implied or quasi-contractual relationship in relation to a Mini Competition prior to the acceptance by the HSE of the terms of the Mini-Competition Tender, pursuant to the procedure adopted for the Mini Competition.

### The HSE reserves the right, without notice to:

* change the basis of, or the procedures (including the timetable) relating to the Framework
* reject any, or all, of the Applications
* not invite an Applicant to proceed further
* not furnish an Applicant with additional information, or
* abandon the competition

### In such circumstances, the HSE and its advisors shall not be liable to any persons as a result thereof. The HSE shall not be bound to accept any Application and reserves the right not to form a Framework in respect of some or all of the supplies, works and/or services for which Applications are invited.

## Freedom of Information Acts

### The HSE is subject to the Freedom of Information (FOI) Act 2014 and acknowledges that information provided in response to this Instructions Document may be confidential or commercially sensitive.

### Applicants are asked to consider if any of the information supplied by them in response to this competition is commercially sensitive or confidential. If this is the case, Applicants must, when providing the information, identify same and specify the reasons for its commercial sensitivity or confidentiality. The HSE will have regard to such a statement but are not bound by it. The requirements of the FOI Act will at all times take precedence.

## Reliance on the capacities of other entities

### In order to demonstrate compliance with the requirements of this competition or any Mini-Competition, an Applicant may rely on the capacities of other entities, regardless of the legal nature of the links between the Applicant and those other entities.

### An Applicant may only rely on the capacities of other entities where those entities will perform the works or services for which these capacities are required.

### Where an Applicant wants to rely on the capacities of other entities, it shall prove to the Framework Purchaser that it will have at its disposal the resources necessary, including by producing a commitment by those entities to that effect.

### If applicable, the provisions of this section 5.3 will be enforced at Mini-Competition stage, whereby Contractors responding to Requests for Tender must provide the necessary details and proof required, as set out in **Section 4** of these Instructions.

## Subcontracting

### The use of specialist subcontractors is not precluded. Applicants must indicate on the Form of Tender any share of the contract that it may intend to subcontract to third parties and any proposed subcontractors.

### In such instances, it will be necessary for that specialist sub-contractor to complete GCCC Suitability Assessment Questionnaire QW3 and associated Supplements and Appendices. Please reference the relevant sections of the SAQ document for further information.

### At Mini-Competition stage, when responding to a Request for Tender, the Contractor must indicate to the HSE the qualifications and experience of staff it proposes for completion of the supplies and/or services defined in the Request for Tender.

### The HSE may take appropriate measures by, amongst other things, verifying in accordance with the provisions in the Regulations, whether there are grounds for exclusion of subcontractors under Regulation 57 of the 2016 Regulations.

### Failure to declare an intention to employ the services of a Sub-Contractor, specialist or otherwise, may lead to failure of the Application, or removal of that Contractor from the Framework pursuant to Section 4, of the Framework Rules.

## Consortium/Joint Venture

### A consortium/joint venture will not be required to convert into a specific legal form in order to submit an Application, but may be required to do so prior to admittance on to the Framework.

### The HSE may:

* contract with each member of the consortium/joint venture on the basis of joint and several liabilities.
* contract with one member of the consortium/joint venture as prime Applicant to whom the other members will be Sub-Contractors.

## Tax Clearance

### All payments under a Mini-Competition Contract will be conditional on the Contractor being tax compliant.

### Contractors must comply with the terms of the Department of Finance Circulars 43/2006 and 44/2006: Tax Clearance Procedures: Public Sector Contracts, or any replacement.

### In line with the legislative provisions of Section 95 of the Finance Act 2014, the following provisions in relation to eTax Clearance Certificates have been brought into force by Revenue, effective from December 2015 -:

* processing of tax clearance applications, certificates issued by the Collector-General and verification by third parties, is all in **electronic** format; and
* where a taxpayer is found to be non-compliant with their obligations their tax clearance certificate can be **rescinded** (or withdrawn).

### eTax Clearances will be available to business, PAYE and non-resident customers with a PPSN/Tax Reference number (TRN).

### There is no change to the current process for customers/applicants that are not registered for Irish tax, i.e. non-residents or some community/voluntary groups. These applications will continue to be processed by the Collector General’s Office. Furthermore, eTax Clearance does not apply to Standards in Public Office (SIPO) applicants.

### Applications in eTax Clearance will be processed in real time. Contractors who are tax compliant will receive a Tax Clearance Access Number. This Number along with the Contractor’s PPSN/Tax Reference number (TRN Number) shall be provided when requested to the HSE as verification of their tax clearance details.

### Subcontractors engaged at Mini-Competition stage are required to produce an in-date (not older than 30 days) Notification of Determination to the HSE or the principal Contractor, before any contract is awarded. Applicants requiring further information on demonstration of satisfactory level of subcontractor tax compliance and Notifications of Determination under Section 530I of The Taxes Consolidation Act, 1997 (as amended) should contact their local Revenue office. Contact details are available on the Revenue website at [www.revenue.ie](http://www.revenue.ie).

## Safety Statement

### Prior to appointment to the HSE Framework Agreement for Asbestos Removal and Disposal Contractors, if not included with their application, the Applicant shall provide a copy of the Applicant’s Safety Statement or equivalent document that sets out the details of the company’s overall Safety Management System, and that describes the measures, procedures, systems, roles and responsibilities used by the Applicant to manage safety of its staff, clients and the general public in its premises and outside its premises.

### The Safety Statement shall be prepared in accordance with Section 20 of the Safety, Health & Welfare at Work Act 2005, and shall include all of the requirements set out in Declarations C3 & C4 attached to the Suitability Assessment Questionnaires.

### Where the Contractor has 3 or Less Employees, the documents included in the Health & Safety Authority **Code of Practice for Contractors with Three or Less Employees** can be used to satisfy the requirement for submission of a Safety Statement. This document is available to download from [www.supplygov.ie](http://www.supplygov.ie).

### The minimum requirement is that the documentation submitted will demonstrate compliance with the Safety, Health and Welfare at Work Act 2005, the Safety, Health and Welfare at Work (General Application) Regulations 2007 and Safety Health and Welfare at Work (Construction) Regulations 2013.

### In relation to access arrangements for work at height, Applicants are deemed to have allowed for the provision of suitable and appropriate access equipment and/or scaffolding in accordance with the Safety, Health and Welfare at Work (General Application) Regulations 2007, Part 4: Work at Height.

### Applicants shall note that the Safety Statement is not part of the Framework Evaluation process and will not be evaluated at Framework application stage. It will be evaluated at Mini-Competition stage only.

### The Applicant’s Safety Statement and site specific requirements under Health and Safety legislation will **be evaluated by the HSE at Mini-Competition stage only, when the Contractor is being considered for award of a Contract. An appropriate preliminary safety & health plan will be issued with each Mini Competition under the Framework Agreement.**

### Contractors who are subsequently awarded works will be appointed Project Supervisor for the Construction Stage (PSCS) in accordance with the Safety, Health and Welfare at Work (Construction) Regulations 2013.

## Insurances

### **5.8.1 General**

1. The collection, transport and disposal of asbestos are covered by the provisions of the Waste Management Act as amended. Any hauliers used to transport asbestos must be authorised under the Waste Management (Collection Permit) Regulations 2007 S.I. No 820 of 2007 and must hold a valid permit to collect such waste. The movement of the waste is subject to the European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulation 2011 (No. 324/2011).
2. In relation to the transportation by road, of small quantities of asbestos, Applicants (including their nominated Specialists) commercial insurance policies must provide the following cover at a minimum:
	* 1. Legal liability for death or bodily injury to any person (unlimited);
		2. Minimum limit of €1.3m for third party property damage for any one accident (increasing to €6.5m if required).
3. The collection, transport and disposal of asbestos must be undertaken by a waste collection permit holder in all instances and waste should be sent to an appropriately authorised facility (contact EPA for further details).
4. The description of the activities of the insured must be unambiguous in setting out that works involving asbestos containing materials are part of the insured Applicants core business activity.
5. All Applicants must notify the Contracting Authority of alterations, cancellations and to confirm renewal of policies.
6. Applicants should note that the Contracting Authority will not be responsible for any cost incurred by Applicant in complying with the insurance requirements outlined above.
7. In all instances the Applicants entering into the Framework Agreement will be required to get their Insurance Brokers/Company to complete the Insurance Questionnaires online at [www.supplygov.ie](http://www.supplygov.ie) prior to award at Mini-Competition stage.
8. Copies of the relevant insurance documents must be made available to the HSE, when requested.

### **5.8.2 Public Liability Insurance**

The following are the minimum requirements that Applicant’s Public Liability Insurance must meet at application stage.

1. Public/Products Liability limit of indemnity provided is not less than €6,500,000 for any one occurrence and aggregated in any one period of insurance in respect of Product Liability.
2. The cover must indemnify the HSE as principal and may include a requirement for a non-vitiation clause. This requirement will be enforced at Mini Competition stage.
3. Public Liability policy must also be extended to cover the role of Project Supervisor (Construction Stage).
4. Maximum permissible levels of excess:
	* + Property Damage: €50,000
		+ Death, Illness or Injury: €6,500

**5.8.3 Employers Liability Insurance**

The following are the minimum requirements that Applicant’s Employers Liability Insurance must meet at application stage:

1. Cover must apply to the employees of the Applicant engaged on the Contract.
2. Limit of indemnity not less than €12,700,000 for any one claim or series of claims arising out of a single occurrence. Maximum excess shall be €6,500.
3. The liability for death or injury to employees must be covered on an unlimited basis
4. The cover must indemnify the HSE as principal and may include a requirement for a non-vitiation clause. This requirement will be enforced at Mini Competition stage.
5. The Applicant shall be liable for and shall indemnify the HSE for and in respect of all and any losses, claims, demands, damages or expenses which the HSE may suffer due to and arising directly as a result of the negligence, act or omission, breach of contract, breach of duty, willful default or fraud of the Applicant, its employees, Sub-Contractors or agents or any of them.
6. Applicants who are successful in being invited to participate in the Framework Agreement must confirm that their insurance will cover the negligence of any Sub-contractor employed by them in connection with any Mini Competition.
7. If Applicants have specific exclusions noted in their insurance policies which restrict or prohibit their ability to carry out certain works under any contract (asbestos, working at heights etc.) the Applicant will be required to either;
	* + Have the exclusion removed from their insurance policy and employ a competent and appropriately insured specialist Sub-Contractor to carry out the excluded activity and put in place contingency cover on the Applicants insurance policy, OR
		+ Have the specialist Sub-Contractor included with the Framework Contractor as a full joint insured on the Applicant’s insurance policy and have the HSE joint insured on the Applicant’s insurance policy.

## Language

### All correspondence in relation to the competition shall be in the English language or the Irish language (accompanied by an English translation).

## Declarations

### Applicants shall ensure that all declarations and associated information provided with their Applications including subsequent further information is correct. Where a Contractor is found to have furnished false, misleading or incorrect information, the HSE will impose such sanctions as it deems appropriate in the particular case, and in the case of a false declaration, the HSE reserves the right to exclude such a Contractor from the Framework.

### By participating in this competition, Applicants accept, confirm and acknowledge that the HSE reserves the right to exclude any Contractor from the Framework, if they do not provide the required evidence of compliance with the submitted declarations when requested by the HSE or it is subsequently discovered that any declaration provided is false.

## Applicable Law

### The laws of Ireland shall apply to this competition and this competition shall be subject to the exclusive jurisdiction of the Irish courts.

## Canvassing

### Canvassing or any effort by an Applicant to influence any staff or agents of the HSE in relation to any aspect of the Application process may result in automatic disqualification from the Application process. Where an Applicant has an existing relationship with the HSE or its employees, the Applicant is advised that any discussions, correspondence, or other influences on the Application process may be treated as canvassing.

### In accordance with Section 38 of the Ethics in Public Office Act 1995 any money, gift or other consideration from a person holding or seeking to obtain a contract will be deemed to have been paid or given corruptly unless the contrary is proved.

## Standstill

### The HSEs decision on the outcome of the Framework Application evaluation process will be communicated in writing to Applicants. The HSE will observe a minimum Standstill Period of sixteen (16) days between the communication of the outcome of the evaluation to the Applicants and the formal establishment of the Framework.

### In accordance with S.I. No. 130 of 2010, European Communities (Public Authorities’ Contracts) (Review Procedures) Regulations 2010, there is no standstill period required for the award of a contract at Mini Competition stage under a Framework Agreement.

## Conflicts of Interest and Registrable Interest

### Any actual or potential conflict of interest involving an Applicant (whether by reason of the Applicant having or having had a role in the HSE in relation to the contract or by reason of the Applicant having or having had an interest in another Applicant or another Applicant having or having had an interest in the Applicant or any other situation creating a conflict of interest, actual or potential) must be fully disclosed by the Applicant as soon as it becomes apparent. HSE reserves the right to raise conflict of interest issues with Applicants.

### Where the HSE considers that the situation does not give rise to a conflict of interest or that the conflict of interest is not material, it will permit the situation to continue.

### Where the HSE considers that the situation gives rise to a material conflict of interest, it may, at its sole discretion, permit the situation to continue subject, if necessary, to appropriate safeguards being agreed between the HSE and the Applicant and the HSE being fully satisfied that those safeguards have been put in place and will be complied with.

### Where the HSE considers, in its absolute discretion, that the situation can only be remedied by the exclusion of the Applicant from the Application process, the HSE shall exclude the Applicant.

### Any registrable interest involving the Applicant and the HSE or their relatives must be fully disclosed in the Application, or must be communicated to the HSE immediately upon such information becoming known to the Applicant, in the event of this information only coming to the Applicants notice after the submission of an Application and prior to the award of the Framework Agreement. The terms ‘registrable interest’ and ‘relative’ shall have the meaning prescribed by the Ethics in Public Office Act 1995.

## Confidentiality

### All documents issued and information given to Applicants must be treated as strictly confidential. Applicants should not release details of the Application documents other than on an “In Confidence” basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing their Application.

## No Collusion

### By submission of an Application, the Applicant warrants that:

* There has been no consultation, communication, agreement or understanding for the purpose of restricting competition, as to any matter relating to prices, with any other Applicant or with any competitor;
* Unless otherwise required by law, the prices that have been tendered in the Application have not knowingly been disclosed by the Applicant, directly or indirectly, to any other Applicant or competitor, nor will they be so disclosed;
* No attempt has been made or will be made by the Applicant to induce any other person or firm to submit or not to submit an Application for the purpose of restricting competition.

# APPENDICES & SCHEDULES

**Appendix 1:** Indicative Timetable

**Appendix 2:** Glossary of Terms

**Appendix 3:** Company Organogram & Statement of Average Annual No’s of Persons Employed

**Schedule 1** – Legislative Requirements & Best Practice Guidelines

**Schedule 2** – Technical Requirements

# APPENDIX 1 – INDICATIVE TIMETABLE

|  |  |
| --- | --- |
| **Procedure to set up Framework** | **Date\*** |
|  |  |
| Date of Issue of Instructions to Applicants | **Friday 20th of January 2017** |
| Deadline for receipt of Queries  | **Tuesday 21st of February 2017** |
| Deadline for Receipt of Application to join Framework  | **Friday 03rd of March 2017** |
|  |  |
| Appointment to the Framework  | **Quarter 2 2017** |
|  |  |

\* **HSE reserves the right to change these dates at its absolute discretion**

# APPENDIX 2 – GLOSSARY OF TERMS

Unless the context otherwise requires, capitalised terms in this Instructions Document have the following meaning;

|  |  |
| --- | --- |
| **Application**  | means an Application for admittance to the Framework submitted pursuant to this Instructions Document  |
| **Applicant** | means an entity that submits an Application  |
| **Asbestos Containing Materials (ACM’s)** | any material or article that, as part of its design, contains asbestos |
| **Closing Deadline**  | means the latest date & time for submission of Applications to join the Framework  |
| **Contract** | means the Contract entered into between a Contractor and the HSE as a result of a Mini Competition |
| **Evaluation Period** | means the period during which the HSE are evaluating Applications |
| **Framework** | means the Framework of successful Applicants set up under this Instructions Document |
| **Framework Agreement** | means the standard Public Works Framework Agreement – PW-CF9 published by the Department of Finance, which Applicants will be required to enter into if successful in their Application to participate in the Framework |
| **Form of Tender** | means the tender documents in the tender invitation. It is the basis for the tender submission that is subsequently included in the Contract as the Contractor’s tender submission. |
| **Instructions Document** | means this Instruction Document and all Appendices hereto |
| **Mini Competition** | means a tender competition between the Framework Contractors for the award of a Contract, undertaken in accordance with the procedure set out in this Instructions Document and in the Framework Agreement |
| **Tender**  | means a tender submitted by a Contractor in response to a Mini-Competition |
| **HSE** | means the Health Service Executive  |
| **Pricing Document**  | means the document in which the HSE prescribes to Applicants how they should break down their tendered lump-sum price |
| **Request for Tender**  | means a tender request issued by the HSE to Framework Contractors  |
| **Schedule** | means the legislative requirements, best practice guidelines andthe technical requirements at Mini Competition detailed in Schedule 1-4 of the Framework Agreement  |
| **Standstill**  | means a period to allow for effective pre contract remedy to unsuccessful Applicants. The HSE may not conclude a contract with the identified preferred Applicants during this time. |
| **Sub- Contractor**  | means an entity that completes work on behalf of a Contractor  |

# APPENDIX 3 – COMPANY ORGANOGRAM & STATEMENT OF AVERAGE ANNUAL NO’S OF PERSONS EMPLOYED

**Please complete this declaration in full and return it as Applicants response to QW2 item 3.4e**

**COMPANY NAME**

To: Health Service Executive, Oak House, Millennium Park, Naas, Co Kildare.

**Regarding: Application for appointment to the HSE Framework for Asbestos Removal and Disposal Contractors.**

**Section A - Company Organogram**

A Dhaoine Uaisle,

With specific reference to section 3.4a of the Suitability Assessment Questionnaire (QW2) and section 3.4.1a of Supplement 3.4.1 and section 3.4.2a of Supplement 3.4.2, we confirm that the following organogram illustrates the management structure within our organization.

**APPLICANT ENTRY**

For clarity, it is accepted that one individual may hold a number of these roles in smaller organizations.

For information regarding qualification levels please reference the National Framework of Qualification (NFQ) website at - <http://www.nfq-qqi.com/index.html>

Management positions include all relevant positions in the organization other than Works Supervisors and Operatives/Installation Technicians.

**Section B - Statement of Average Annual No’s of Persons Employed**

With specific reference to section 3.4e of the Suitability Assessment Questionnaire (QW2) and section 3.4.1e of Supplement 3.4.1 and section 3.4.2e of Supplement 3.4.2, we confirm that the following represents a statement of the average annual numbers of persons employed in the positions referenced over the past 3 years.

**APPLICANT ENTRY**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Year** | **Average Annual No of Management Staff**  | **Average Annual No of Employees** | **Average Annual No of Managerial Staff involved in Health & Safety** | **Average Annual No of Persons Employed to provide PSCS Services**  |
|   |
| 2015 |  Applicant Entry |  Applicant Entry | Applicant Entry  | Applicant Entry  |
|   |
| 2014 |  Applicant Entry |  Applicant Entry | Applicant Entry  | Applicant Entry  |
|   |
| 2013 |  Applicant Entry |  Applicant Entry |  Applicant Entry |  Applicant Entry |
|   |
| **Total**  | Applicant Entry | Applicant Entry | Applicant Entry | Applicant Entry |

For clarity, it is accepted that persons employed in management positions within an organization may fulfill some or all of the roles described above.

In instances where it becomes necessary to employ additional management and or personnel to complete a specific project we confirm that these additional staff shall have a level of training equivalent to that of staff on permanent contracts.

Furthermore, we confirm that where third parties are appointed to act as Project Supervisor for the Construction Stage (PSCS) on behalf of our organization, both at present and as the need may arise into the future, the third party resource shall be appointed in accordance with the requirements of the Safety, Health and Welfare at Work (Construction) Regulations 2013 (S.I. No. 291 of 2013). This third party will be available for the purposes of meeting this requirement for the duration of the Framework Agreement including active site involvement and not just in preparation of Health & Safety documentation.

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Signed: Date:

On behalf of [Name of Applicant]

# SCHEDULE 1 – LEGISLATIVE REQUIREMENTS & BEST PRACTICE GUIDELINES

## General

* 1. All works undertaken shall be in full compliance with the following legislation:
		1. Safety, Health and Welfare at Work Act, 2005 (S.I. No. 10 of 2005)
		2. Safety, Health and Welfare at Work (General Application) Regulations, 2007 as amended (S.I. No. 299 of 2007 & S.I. No. 732 of 2007)
		3. Chemicals (Asbestos Articles) Regulations 2011 (S.I. No. 248 of 2011
		4. The Safety, Health & Welfare at Work (Exposure to Asbestos) (Amendment) Regulations, 2010 (S.I. No. 589 of 2010)
		5. The Safety, Health & Welfare at Work (Exposure to Asbestos) Regulations, 2006 (S.I. No. 386 of 2006)
		6. The Safety, Health & Welfare at Work (Construction) Regulations, 2013 (S.I. No. 291 of 2013).
		7. REACH Regulation (EC) No. 1907/2006 amended by Regulation (EC) No. 552/2009
		8. Safety, Health and Welfare at Work (Chemical Agents) Regulations, 2001 (S.I. No. 619 of 2001).
		9. Safety Health and Welfare at Work (Carcinogens) Regulations, 2001 (S.I. No. 078 of 2001)
		10. European Communities (Carriage of dangerous goods by road & use of transportable pressure equipment regulations, 2011 (S.I. No. 349 of 2011)
		11. Air Pollution Act, 1989.
		12. The Construction Product Regulations 2013

1.02 In addition all Contractors should familairise themselves with the following Health & Safety Authority (HSA) best practice guidance publications in relation to asbestos containing materials :

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Practical Guidelines on ACM Carriage of ACM’s by Road

 Management & Abatement

# SCHEDULE 2 – TECHNICAL REQUIREMENTS

## 2.0 General

2.01 Contractors must have an appropriate qualification and adequate relevant experience.

2.02 In all instances it is the absolute responsibility of the Contractor to be able to unambiguously demonstrate that a proper standard of workmanship has been executed, that the persons who have undertaken the works are competent, possessing sufficient training, experience and knowledge appropriate to the nature of the work that has been performed and having particular regard to the size and complexity of such works.

## 2.1 Contracting Authority checks prior to award at Mini Competition

2.1.1 The following are details of the site specific checks and associated substantiation that may be requested by the HSE prior to award at Mini Competition stage:

1. Confirmation that there has been no change in circumstances that might affect the validity of any of the statements in any of the Declarations returned at Framework Application Stage. Namely Appendix A, B1, B2, B3, C1, C3, C4, D, E (Amended), F, G & H to the Suitability Assessment Questionnaire QW2 and associated Supplements, or information submitted in lieu of these declarations.
2. Confirmation and associated evidence of **up to date** membership of relevant trade associations e.g. ARCA or equivalent, by demonstrating that information provided in response to section 3.2 of the Suitability Assessment Questionnaire QW2 at framework application stage **is up to date.**
3. 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.
4. A copy of the current company training register indicating the full list of training undertaken by each employee, inc information on dates, certification of training and training provider, duration etc.
5. Details of third parties employed in the completion of works projects, e.g. external testing houses, environmental monitoring contractors, independent analysts, etc.
6. Details of the proposed authorised collection and transport contractor for asbestos containing materials including relevant waste collection permit number/s.
7. Details of any proposed authorised company undertaking the disposal of asbestos containing materials on behalf of the contractor, including details of the permit/license authorising same.
8. A detailed register of all equipment, relevant to the work type in the ownership of the contractor.
9. An Appendix of Performance and service/calibration/maintenance history for each item of equipment cross referenced with the equipment register.
10. 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.
11. 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.