



Crown
Commercial
Service

Annex 2

Further Competition Guidance Notes

Grants and Programme Services

Framework Agreement No. RM 949

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Further Competition Guidance

Important note: The following information is for guidance only, it is the responsibility of the customer to ensure that any further competitions it runs are legally compliant, taking their own legal advice as appropriate. Whilst Crown Commercial Service makes every effort to ensure that its framework agreements are established in a legally-compliant fashion, Crown Commercial Service accepts no responsibility for any failure by any customer to comply with its obligations as contracting authority when calling off a contract under a Crown Commercial Service framework agreement.

1. The basic rules on further competitions

- A further competition must be undertaken “where not all of the terms governing the provision of the works, services and supplies concerned are laid down in the framework agreement” [Regulation 33(8(c))].
- Further competitions must be run on the basis of “same terms as applied for the award of the framework agreement and, where necessary, more precisely formulated terms and, where appropriate, other terms referred to in the procurement documents for the framework agreement”. This means that the terms which are included in any ITT must be those specified in the framework agreement supplemented as necessary only in the places where alternative or additional terms are specifically permitted (e.g. service schedules). No other terms should be used and no amendment should be permitted to be the terms specified in the framework agreement or in the procurement documents for that framework agreement.
- For every contract to be awarded, contracting authorities shall consult in writing the suppliers capable of performing the contract. The reference to capability does not mean that it is permissible to have a further mini-PQQ stage in a further competition. The capability of all suppliers on a framework agreement has been carefully checked by Crown Commercial Service in setting up the framework agreement. It is, however, permissible to ask bidders whether they have an interest in performing the contract.
- The ITT should specify a reasonable period for suppliers to respond, taking into account factors such as the complexity of the contract, but there is no prescribed minimum period that suppliers must be given to respond.
- Tenders must be kept confidential.
- The contract must be awarded to the supplier who has submitted “best tender on the basis of the award criteria set out in the procurement documents for the framework agreement”. This will mean the most economically advantageous tender, weighing up both price and quality factors.

1.1 Award criteria and evaluation

The principles applicable to award criteria and evaluation are exactly the same under a further competition as they are in a stand-alone procurement. That is to say:

- contracts must be awarded only on the basis of criteria that have been disclosed to bidders in the ITT;
- award criteria must be relevant to the subject matter of the contract and not have the effect of conferring an unrestricted freedom of choice on the contracting authority;
- criteria relating to suppliers' capability (and especially the use of experience or "track record" as a criterion), capacity (subject to the point above), technical ability and personal standing (i.e., PQQ matters) are not permissible; and
- evaluation must be carried out in a fair and non-discriminatory fashion with a proper audit trail.
- The headline award criteria will be set out in the framework agreement itself. These are the only headline criteria that may be used in a further competition.
- Authorities may specify sub-criteria to the headline criteria specified in the framework provided that those sub-criteria comply with the principles mentioned above and are disclosed, together with any weightings, to bidders in the ITT.
- All criteria actually used and their weightings must be disclosed to bidders in the ITT.
- All framework agreement suppliers (or, where applicable, all those on the relevant panel) should be notified of the award decision. Unsuccessful suppliers should be offered a de-brief in a similar manner to a stand-alone procurement.
- The 10-day standstill waiting period does not specifically apply to the award of a contract under a framework. It is however good practice to apply a waiting period between notifying an award decision and entering into the contract.

When running a further competition, customers should award on the basis of the most economically advantageous tender and must provide suppliers with the methodology behind the evaluation, including the evaluation criteria and the weightings that are applied to each criterion as part of the ITT.

Under this framework, the following weighting criteria should be applied:

Criteria Number	Criteria	Percentage Weightings (or rank order of importance where applicable) - to be set by the Contracting Body conducting the further competition
A	Quality (Quality <i>may</i> include: Seniority, qualification and experience of people to be deployed on the project. Recent experience relevant to the project. Ability to deploy resources and meet the required deadlines. Regulatory Body Approvals where appropriate. Environmental and/or social aspects. Contracting Bodies may test Quality by supplementing these tests for quality as appropriate relevant to the Requirement	30 – 70%
E	Price	70 - 30%

The Framework has been designed to provide you with considerable flexibility over the weighting of scores under a further competition. Under the terms of the Framework the scores for the qualitative assessment of bidding suppliers (for example, the mandatory or Lot specific questions) can account for between 30% and 70% of the total. The scores for the fees quoted can account for between 70% and 30% of the total. You will need to consider the appropriate split based on the specifics of your project and what you believe will help you assess the most economically advantageous tender taking into account value for money considerations and any other applicable aims of your project.

2. Lot Selection

Each of the Lots under this Framework relates to a particular area of work for Grants and Programme Services. In deciding which Lot or Lots to use you should consider whether your project will involve the execution of a particular transaction.

Lots 1, 2, 3, 4, relate to the provision of specific transaction types within the scope of the provision of a Grants and Programme Service. However, if you require a combination of all or part of the services provided under cover of Lots 1, 2 and 3 you should consider Lot 5 as this could represent a more cost effective solution. However, it should be noted that you cannot adopt such an approach where it is for a single Lot activity.

There may be circumstances where your project requires services under more than one Lot, either provided by the same supplier or different suppliers. For example:

- you may want to appoint a supplier to provide a Policy Design and Implementation service (for example, under Lot 3) for the first stage of a particular project before you can decide whether subsequently you want to appoint a supplier to provide an administration and marketing service for the second stage (for example, using Lots 1 and 2);

The Framework has been designed to allow you to select more than one Lot to use for a particular project, either with the same supplier providing the services under each Lot for which they are listed or with different suppliers. You should note that using more than one Lot, and in particular using more than one supplier, can add cost and complexity to your project. You will need to take this into account when demonstrating that value for money will be achieved from using more than one Lot.

2.1 Using the core services listed under each Lot

To assist you in setting the scope of work that you require for your project, each Lot has a detailed list of the core services that every supplier under that Lot has confirmed they are able to undertake. These are set out in Annex 1 for each Lot respectively. These core services represent a wide range of the services that may be required from a supplier under each Lot.

It is not expected that all of the core services listed under each Lot will be required for any given project. As such you should select only those core services that you require from your supplier for your particular project.

Furthermore, the core services listed under each Lot are not intended to be exhaustive and you can consider refining the services as appropriate for your needs. Likewise, you can amend the wording of the core services if necessary to better reflect your specific requirements for your project. It should be noted, however, that in order to comply with the Public Contracts Regulations 2015 any refinements or amendments

that you may make to the services you require for a particular project must always fall under the original scope of work for that Lot and any change must not be significant enough to deem this a material change from the scope of requirements set out in the Framework. If you are in any doubt over this you should approach your own legal advisers.

2.2 Using one or more suppliers for cross-Lot work

For projects where you wish to use more than one Lot there are several ways of appointing the supplier(s):

2.2.1 You can call-off and run further competitions for each Lot separately and involving all of the Framework suppliers listed under each Lot. The further competitions can be carried out at the same time or you may wish to carry them out at different times, for example where different Lots may be required at different stages in your project but this is uncertain at the start.

Under this route all of the suppliers will be assessed under each Lot separately against the selection criteria you set for each Lot. This may result in different suppliers or the same supplier being selected to undertake the work under each Lot. You will need to have different call-off agreements in place for each Lot, even if the same supplier has been selected for each Lot.

2.2.2 You can chose to have different suppliers for different Lots (for example, where you want to have separate suppliers providing administration, Marketing, Policy Design and Implementation services and Lot 4 (evaluation) services respectively). You would still run further competitions for each Lot(s) separately and involving all of the Framework suppliers listed under each Lot. But as the majority suppliers are listed under multiple Lots you must make clear as part of the call-off for each Lot(s) and prior to the further competitions that different suppliers will be selected for each Lot(s) and if a supplier is successful in one Lot(s) it will not be considered for any other Lot(s).

3 Pre Market Engagement

Pre market engagement (engaging with framework supply base prior to issuing further competition documentation) is permitted under the framework. If engaging with the market prior to awarding a contract, you should ensure that the subsequent competition is conducted on a fair, open and transparent basis.

Once the requirements are confirmed and a firm understanding of the route to market is known, you should undertake to “warm-up” the relevant suppliers, making them aware of an impending requirement and capturing a supplier named contact and contact details (mobile phones are best). Where there is to be a rapid procurement the Procurement Lead should also make suppliers aware of the proposed procurement timetable.

Only information about the requirement approved by the Customer should be shared with suppliers, this must be discussed and agreed prior to contact. This information should provide an overview of the requirement but not give too much away such as scope of the service, type of service, service provision timescales etc.

This is also a useful opportunity to inform the relevant suppliers if the ITT release is NDA dependent - they will then be able to notify their own legal department and be better prepared to respond quickly.

Similarly the Procurement Lead may also wish to inform the relevant suppliers at this stage of any specific requirements of the Customer that will form a key part of the assessment of tenders. This will allow suppliers to self-select whether they want to participate in the procurement or not, and may help reduce the workload of running the procurement.

Note that procurement must be open to all of the relevant suppliers, hence it is important to receive confirmation in writing if a supplier does not wish to participate in a particular procurement. Doing so will not exclude them from any subsequent procurements.

4 Non-Disclosure Agreements

It is currently considered there is no requirement for Non-Disclosure Agreement. However, should the customer consider a Non-Disclosure Agreement is relevant to their particular requirement then you should approach your own legal advisers.

5. Setting the performance measurement criteria

The Framework contains a number of performance criteria, and key performance indicators, by which you can assess the performance of your supplier, and incentivise the supplier's performance, or, if the services they provide do not meet the required standard, ultimately terminate their appointment. These are there for the purposes of guidance only and the customer should give consideration to their specific requirement and amend as appropriate to ensure there is the provision of an effective service. If you are in any doubt over completing these sections in the call-off contract you should approach your own legal advisers.

6. Call-off procedures

6.1. Conflict checks

It is not considered there is the potential for conflict checks to be required. However, customers who contract for the provision of Lot(s), or, for a managed service (Lot 5) and then decide there is a requirement for Lot 4, may need to undertake these checks as part of their requirement development. In this circumstance customers may wish to contact your own legal adviser.

6.2. Finalising the call-off contract

The procedure for the award of a call-off is set out in paragraph 6 of schedule 5 of the Framework Agreement.

You can access the draft call-off contract through Annex 3

This may be updated from time to time, so please ensure that you always use the latest version.

The call-off contract consists of the following elements:

- the order form;
- the contract terms and conditions; and
- the contract schedules.

The call-off contract should be completed prior to the further competition. In particular, the final scope of work and fee structure should be added for your particular project. The terms and conditions are mainly standard government provisions that will be applicable to all call-off agreements. However, you should give due consideration to those sections of the draft call-off contract that are in square brackets. These sections can be amended or deleted by you as appropriate. All other sections of the call-off contract should remain unchanged, except for completing necessary project details.

When you have selected your supplier through the further competition you must finalise the order form and issue it to your chosen supplier. The order form captures essential details relating to the specific contract, in effect providing a summary, as well as being the document for putting the contract in place. The parties enter into the call-off agreement by signing the order form.

If you are in any doubt as to how to complete the call-off contract or have any queries over its content you should contact your own legal advisers.

7 Good Practice

When assessing the available information and first engaging with the Customer, the Procurement Lead should consider:

The full scope of the requirement:

- Is there just one or are there multiple procurement requirements?
- Is the Procurement Lead the right person to lead on all of these requirements or will it require several procurement leads?
- If multiple procurement leads, who will take responsibility for coordinating the CCS response?

The Grants and Programme Services required:

- Is the nature of the project clear?

- Has the Customer specified the type of Grants and Programme Services work they require and provided a scope of work, and is this sufficiently detailed and clear enough? If not the Customer may require assistance in producing this. Is the Procurement Lead the right person to do this, or do they need assistance from the Category Strategy and / or Category Services team?

Timing of requirement:

- What is the urgency for this particular requirement?
- Is there a time dependency?

Sensitivity:

- Is this requirement subject to any embargo and / or political sensitivities?
- Is there a need to restrict access to the material internally? In some situations it may be appropriate to ring fence people working on a procurement, or for work to be undertaken off site (for example, at the Customer's location). In certain cases the Customer may require that individuals involved in the procurement enter into specific Nondisclosure Agreements or similar.

Approvals:

- Is the requirement subject to any spending controls or department specific controls which need to be accounted for in the procurement timetable?
- Does the Customer have legal counsel engaged for this requirement? Who are they and what is their remit for this project e.g. "do they need to sign off on the procurement strategy"?

Contact

- Are there preferred suppliers that should receive targeted communications for the procurement (dependent on the procurement strategy employed)?
- Always contact suppliers by telephone initially to ensure you have up to date contact details, this will avoid delay for both parties.