Framework Agreements

Impact of EU Exit on Framework Agreements

The UK has left the EU and as a result, the trading transition period ended at 11 p.m. on 31 December 2020.

You should continue to publish your contract notices via Public Contract Notices. However, there will be some changes on how your contract notice will be advertised and whether you use an **ESPD** or an **SPD** as follows:

If your Framework Agreement contract notice or PIN (if used as a call for competition) was published on PCS before 11 p.m. on 31 December 2020:

- Your contract notice will have been published throughout the UK via OJEU
- Suppliers (and subcontractors, where appropriate) will have been asked to complete an **ESPD**
- Any future call offs/notices/awards under this Framework Agreement will continue to be made via OJEU (as these will be linked to the original Framework Agreement contract notice raised in PCS)
- Any future call offs will require an ESPD to be completed by suppliers (and subcontractors, where appropriate)

If your Framework Agreement. Contract Notice or PIN (if used as a call for competition) was published on PCS at or after 11 p.m. on 31 December 2020:

- Your contract notice will be published via the Find a Tender Service (FTS) throughout the UK. This will happen automatically and you should therefore raise your contract notice in **PCS** as normal.
- Suppliers (and subcontractors, where appropriate) need to complete an **SPD**
- Any Framework Agreement future call offs/notices/awards will continue to be made via FTS (as these will be automatically linked to the original DPS contract notice raised)

More information can be found in **EU Exit** and **SPPN 11/2020**

The following information has been produced to assist buyers when considering whether they should call-off from or set up a framework agreement.

Once a requirement has been identified for goods or services, as part of developing your procurement sourcing strategy, you should consider if there are any existing arrangements which could meet your needs. Local procurement departments and Centres of Expertise will be able to assist in this process.

If there are no existing arrangements, or if the sourcing strategy demonstrates that best value for money would be delivered by a direct award, you will have to determine whether awarding a contract or framework agreement would be more appropriate.

Quickfire Guide

Quickfire Guide

Early Considerations

When Setting up a Framework Agreement

- Is a framework agreement the right approach for the particular goods or services to be purchased?
- Will the framework agreement be for your Organisation's own use or for use by a number of organisations?
- Will the framework agreement be divided into categories (or lots)?
- Will the framework be concluded with a single supplier or multi-supplier framework?
- How will call-off contracts be awarded? Consult Method of Call Off document below.
- How best to include relevant sustainable criteria to deliver outcomes through the subsequent call-offs. Also, how can you make this part of the contractual terms and conditions for establishing call-off contracts.

For further information consult the Guide for the Use of Framework Agreements.

Once the framework agreement has been established the terms of the agreement should include instructions on how call-off contracts should be awarded. Your organisation may also produce further guidance for the identified users of the

framework agreement on how a call-off contract should be undertaken.

When Calling Off from a Framework Agreement

- Was your Organisation expressly identified in the contract notice for the Framework Agreement you are looking to use?
- Is there more than one framework agreement which could meet the need?
- What are the terms laid down in the framework agreement for call-off contracts?

When calling off from a framework agreement, it is important to note that there is no scope to apply **selection criteria**. Selection criteria will have been applied when establishing the framework agreement and must not be repeated at the call-off stage.

When an aspect of contract delivery has not been included in the framework agreement, but is relevant to the nature of the call-off contract, organisations should consider how best to address this in the call-off contract. Organisations should consider whether the terms laid down in the framework enable additional criteria. For example, where **Fair Work practices** have not been included in the framework agreement but there is an award criterion to tackle “sustainability”, it is possible to include more precise criteria under this broader heading to address Fair Work practices.

Mini-competitions must generally be based on the same terms as those which were applied for the award of the framework. However, **The Public Contract (Scotland) Regulations 2015** allows that where necessary criteria for mini-competitions:

- may be more precisely formulated
- that other terms referred to in the procurement documents for the framework, may be applied where appropriate.

For further considerations and an example of a typical mini-competition process consult the Guide for the use of Framework Agreements.

Detailed guidance for conducting a mini-competition should be available from the owner of the framework agreement. However there are specific rules which are applicable to all mini-competitions.

The call off must be placed with the supplier who has submitted the most economically advantageous, on the basis of the award criteria set out in the framework agreement. Unsuccessful tenderers must be notified of the outcome when a contract is awarded under a framework agreement.

General Data Protection Regulation (GDPR)

Organisations must ensure that current and future framework agreements (including those entered into before the legislation came into force) are compliant with GDPR. All relevant procurement documents must make reference to the relevant legislation.

When using framework agreements, and if required, organisations should review each call-off to ensure all relevant procurement documents have been updated to reflect the new legislation.

More detailed information on GDPR can be found in **Additional Resources**.

You may choose to follow the standstill rules on a voluntary basis when awarding an above-threshold contract by mini-competition in order to mitigate against an ineffectiveness order resulting from a legal challenge.

Speculative Framework Agreements

It is recommended that you treat claims that speculative framework agreements offer the prospect of “full procurement law compliance” with caution, please refer to SPPN 3/2017 for further information.

Any documents you need are listed below

Guide for the Use of Framework Agreements

(file type: ppt)

Method of Call Off

(file type: ppt)