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Scottish Procurement

Hosting Services Framework

Buyer's Guide

Version 1.12 – July 2017

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1. Foreword and acknowledgements

Scottish Procurement aims to deliver benefits to the people of Scotland through improved value for money for taxpayers, improved goods and services for all our citizens and economic opportunities for Scotland. This is achievable through effective collaboration throughout the procurement cycle.

Scottish Procurement would like to acknowledge the work, support and contribution from all sector representatives. Their input has helped to shape the direction of the project to a successful outcome.

2. Introduction

This guide aims to assist public sector bodies in selecting the most cost effective services from a range of contractors to suit individual requirements. This document is designed to guide organisations through the selection and ordering process and provide organisations with peace of mind regarding the services purchased through this framework agreement.

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3. Framework overview

The framework is for an initial two year period from 21 May 2015 to 20 May 2019, with options to extend for two periods of one year. The first year has now been taken up, therefore extending the framework to 20 May 2018.

Buyers are reminded of the obligations contained in the [Procurement Reform \(Scotland\) Act 2014](#) in relation to the award of contracts valued equal to or greater than £50,000 including those awarded as a result of a framework call-off/mini competition.

In particular, buyers should note that in accordance with [Section 23\(2\)](#) the award of contracts must be publicised on the Public Contracts Scotland website and in accordance with [Section 35](#) contracts must be registered in the contracting authority's "contracts register".

Framework scope

The scope of the framework agreement is for the provision of Hosting Services, which is commonly referred to as cloud services including private cloud, public cloud, community cloud and co-location services as defined in the framework agreement definitions. For ease of reference and to ensure all round clarity, Scottish Procurement has provided [definitions of cloud services](#) based on the US National Institute of Standards and Technology (NIST).

A key driver is to further enhance Hosting Services available to the Scottish public sector whilst continuing to reduce costs. The framework also supports a number of digital services strategies and programmes, including:

- [Scotland's Digital Future: Delivery of Public Services strategy](#)
- [The Data Hosting and Data Centre Strategy for the Scottish Public Sector](#)
- [The Scottish Wide Area Network \(SWAN\) Programme](#)

As part of the framework, contractors will provide the following services requirements, some of which will be mandatory for some contracting authorities, including but not limited to:

Core services:

- Hosting Services: private cloud
- Hosting Services: public cloud
- Hosting Services: community cloud
- Hosting Services: hybrid cloud
- Hosting Services: co-location

Key deliverables:

- Infrastructure as a Service (IaaS)
- Platform as a Service (PaaS)
- Data centre services (including computing, storage, firewalls, security, patching, etc.)
- All deliverables are available at a government security level of official services can also be delivered at classification levels above official – secret and top secret. 24/7 support services
- Availability (minimum 99.9%)
- Services can be delivered via government networks, including SWAN, Janet, N3, PSN and GSX/GSI
- ISO 27001 and ISO 27017 compliance or equivalent
- Enablement services
- Business continuity and disaster recovery services as part of the Hosting Service
- Maximum power usage effectiveness (PUE) rating of 1.8 – but with targets of lower than this.

Out of scope

For the avoidance of doubt, the following products / services are **NOT** in scope and cannot be offered to contracting authorities under this framework agreement:

- Software as a Service (SaaS)
- Fully managed IT services
- Unified communication (which covers customer user-interface)
- Creating applications
- Web development
- Web design
- Creating and updating content
- Video streaming
- Procurement of hardware

Framework service providers

This is a multi-contractor framework currently with seven framework service providers who, in alphabetical order, are:

- Atos IT Services UK Limited
- Brightsolid Online Technology Limited
- Capita IT Services Limited
- CGI IT UK Ltd
- Fujitsu Services Limited
- Iomart
- Pulsant Limited

Organisations looking for further information from any contractors should use the contact information detailed in the table below:

Atos Stephen McLaughlin 4 Triton Square Regents Place LONDON NW1 3HG Email: ScottishOpportunities@atos.net Mobile: 07733 315510	Brightsolid Malcolm Smith CBC House 24 Canning Street EDINBURGH EH3 8EG Email: msmith@brightsolid.com Mobile: 07584 146174	Capita David Neighbour Pavilion Building, Ellismuir Way Tannochside Park GLASGOW G71 5PW Email: ITESFrameworks@capita.co.uk Mobile: 07939 509325
CGI Jamie Maclaren 1st Floor, Wallace House 1 Lochside Avenue Edinburgh Park EDINBURGH EH12 9DJ	Fujitsu Jamie Whysall Wallace House 1 Lochside Avenue EDINBURGH EH12 9DJ Email:	Iomart Craig Conway Unit 9, Lister Pavilion Kelvin Campus West of Scotland Science Park GLASGOW

<p>Email: cgi.hosting.framework.uk@cgi.com Mobile: 07747101643</p>	<p>jamie.whysall@uk.fujitsu.com Mobile: 07867 828254</p>	<p>G20 0SP Email: sgtenders@iomart.com Mobile: 07880 030028</p>
<p>Pulsant John Easson Sugarbond 2 Anderson Place Edinburgh EH6 5NP Email: john.easson@pulsant.com Phone: 0131 314 5015</p>		

Framework benefits

The benefits for public bodies using the framework are:

- Objectives include maximising efficiency and collaboration through aligning with the strategic priorities in Scotland's Digital Future: Delivery of Public Services, delivery and demonstration of real cash savings, embedding sustainable procurement and improving access to public sector contracts.
- All of the service providers have secure hosting facilities (security compliance of ISO 27001).
- All of the service providers have cyber essentials (CE) .
- All of the service providers have the ability to provide the core services at the government security classification of 'Official' which was a minimum requirements of the tender.
- Cost savings for the Scottish public sector can be achieved through collaboration and exploring more efficient and sustainable forms of hosting services.
- Strong economic benefits with three small and medium-sized enterprises (SMEs) on the framework. All service providers have an economic footprint in Scotland and four service providers deliver all hosting services in Scotland thus creating the potential for economic growth and local employment opportunities through call-off contracts.
- All service providers will provide their hosting services within the European Union.
- Over a four year period the expenditure through the framework is expected to be £15-30 million with potential savings of up to £4.8 million.
- This award follows a comprehensive tender exercise, under EU public procurement regulations, and provides an easy route to market for contracting organisations

Framework sustainable benefits

As part of the framework agreement, the suppliers have indicated a number of sustainable benefits, these include:

- Monitoring and measuring PUE ratings
- Purchasing electricity from green tariffs and renewable energy
- Complying with ISO 14001 accreditations and environmental management systems
- Equal Opportunity suppliers
- Financial investment and job creation, including apprenticeships and graduation programmes
- Prompt payment through the supply chain

Customers may also wish to actively consider sustainability issues as part of the direct award/mini competition process.

4. Supplementary information

There are two compliant routes to procure under the framework agreement. Contracting authorities can access the framework agreement either by a direct award or by conducting a mini competition. In either case, the Standard Terms of Supply (schedule 5) must be used when drawing up the contract.

Full details on buying from a framework are detailed in [SPPN 5 2010](#) and further guidance on completing schedule 5 are available on our secure [Knowledge Hub](#) site.

Direct award

If contracting authorities have a defined requirement for a resource detailed in the rate card, they can use the direct award option under the framework where they can determine which contractor offers best value for money.

Framework documentation is available on the secure stakeholder group "Procurement Information Network" within [Knowledge Hub](#).

If you do not have access to the secure stakeholder site, please ensure you are registered on [Knowledge Hub](#) and complete and email the attached template document to scottishprocurement@gov.scot.

A direct award can then be placed with the successful framework contractor updating the Standard Terms of Supply (schedule 5) or completing our 'order form', please contact the framework manager for more information.

IR35: off-payroll working

From 6 April 2017, there were changes to the rules governing off-payroll working in the public sector. [Where the rules apply](#), people who work in the public sector through an intermediary, typically a Personal Service Company (PSC) will pay employment taxes in a similar way to employees. For the purpose of this reform, a public authority means a public authority as defined for the purposes of the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002.

The **IR35** legislation specifically challenges those people who supply their services to clients via their own company, often known as a 'personal service company' (PSC). In this case the service will be delivered via an intermediary which will be the supplier on the framework.

Buyers must be aware of this legislation and advise framework suppliers at call off stage if the work being procured is in or out of scope. If you feel that **IR35** may be applicable to the role you are procuring through the framework please refer to the [Employment Status Indicator](#) (ESI) test as it should be completed in relevant cases - before you engage the suppliers. The test result can be shared with the supplier as

evidence that the role is in scope. This may be more relevant for direct award contracts but may also be relevant for mini competitions that are predominantly resource based.

If the role is in scope and is being delivered, via the framework supplier, by a PSC (or equivalent) then the framework supplier must be advised that they are liable for ensuring the relevant PAYE taxes are paid correctly. It is not the responsibility of the public sector body to pay this.

Mini competition

Mini competition

Contracting authorities should develop their own specification and service levels (schedule 1), pricing (schedule 2), award procedures (schedule 3) and management arrangements (schedule 4) along with instructions to tenderers describing how and when to respond, along with details of the evaluation criteria to be used. Responses received by the deadline should then be evaluated and the most economically advantageous contractor awarded the contract. The Standard Terms of Supply (schedule 5) should be updated including the successful tenderers response in schedule 1b (contractor solution).

Order form

There may be occasions when an 'order form' could be used as an alternative to completing the entire schedule 5 document for contracts of £100k and under. If you have any questions please contact the authority framework manager.

The award criteria for mini competitions can cover both cost and quality of service. The weightings should be determined by the contracting authority prior to the issue of any specifications to the contractors, and must be included as part of any mini competition.

Further information on running a mini competition is provided in Annex A

5. Frequently asked questions

Framework agreement

1. What is a framework agreement?

A framework agreement is a general term for agreements which can be with either single or multiple contractors that set out the terms and conditions under which specific purchases (call-offs) can be made throughout the framework duration.

Scottish Procurement has entered into this framework agreement with contractors to ensure organisations may obtain value for money in their purchasing whilst being assured that their procurement is compliant with EU procurement regulations.

In establishing this framework agreement, Scottish Procurement carried out a competition in accordance with EU procurement regulations.

Using a framework agreement saves time and money for organisations and ensures that the terms and conditions of their contract with the contractors are robust and follow best practice.

Under the framework agreement and in accordance with EU procurement regulations, organisations can purchase network enablement services either through mini competition or direct buy.

2. What is the framework agreement start date and what is the duration?

The framework was signed on 21 May 2015 for a duration of two years. The first of two one-year extensions has now been taken up, and takes the framework to 20 May 2018.

3. Who can use the framework?

It is the responsibility of any buying organisation wishing to use the framework agreement to satisfy itself that it is eligible to do so. Entitlement can be established from the terms of the Official Journal of the European Union (OJEU) advert (OJEU reference number: 2014/S 231-407716. Section I.4 of the advert refer; copy embedded below).

“The framework agreement will be available for use by the Scottish Ministers (including agencies), Scottish Non-Departmental Public Bodies, offices in the Scottish administration which are not ministerial offices, cross-border public authorities within the meaning of section 88(5) of the Scotland Act 1998, the Scotland Office, the Scottish Parliamentary Corporate Body, councils constituted under section 2 of the Local Government (Scotland) Act 1994, the Scottish Fire and Rescue Service, the Scottish Police Authority, Scottish health boards or special health boards, bodies registered as social landlords under the Housing (Scotland) Act 2001, Student Loans Company Limited, the Forestry Commission, the Commissioner of Northern Lighthouse operating as the Northern Lighthouse Board, Equality and Human Rights Commission, Business Stream Ltd, the Business Gateway National Unit at the Convention of Scottish Local Authorities, further or higher education institutions being fundable bodies within the meaning of section 6 of the Further and Higher Education (Scotland) Act 2005, any public body established by or under the Scotland Act 1998 or any Act of the Scottish Parliament, any association of or formed by one or more of the foregoing, bodies financed wholly or mainly by one or more of the foregoing, bodies subject to management supervision by one or more of the foregoing and bodies more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, being appointed by one or more of the foregoing. In addition to the contracting authorities listed, the framework agreement will be available to charities entered on the Scottish Charity Register and voluntary organisations entered on the membership database of the Scottish Council for Voluntary Organisations.”

Guidance on this can be found in annex A of Scottish Government Guidance on Framework Agreements. If there is any doubt, legal advice should be sought.

4. Are the framework terms and conditions subject to Scots law?

Yes.

5. Are framework agreement details distributed to individual organisations?

Scottish Procurement will disseminate relevant information concerning the framework via sectoral Centres of Expertise, who then cascade to their stakeholders. Framework terms can be accessed via the secure Scottish Procurement [Knowledge Hub](#) site or via your sector representative.

6. How will my contract be formed?

Your contract will be based on the Standard Terms of Supply (schedule 5), which have been constructed by Scottish Procurement and which forms part of the framework agreement between Scottish Procurement and each contractor awarded a place on the framework. This will be amended to reflect the individual customer organisation, contractor, reference numbers, dates, etc. Specific requirements or variations will be recorded in the supporting schedules. It will constitute the entire agreement between you and the contractor relating to the services ordered.

7. What about data protection?

Both you and the contractor are obliged to duly observe all your obligations under the Data Protection Regulations which arise in connection with the contract. Under the contract, both you and the contractor are asked to take all necessary precautions to ensure that all confidential information is treated as confidential and not disclosed or used other than for the purposes of the contract by your employees, agents or sub-contractors. Please refer to the data protection clause in the Standard Terms of Supply (schedule 5) for further details.

8. What if I want to amend a contract?

If you or the contractor wish to amend the contract, such amendments must be agreed between you both and formally amended in accordance with the change control procedures. The contract may be amended only by the written agreement of both parties. Accordingly, the service provider may not unilaterally amend the contract.

Care should be taken when considering amendments to the contract that any amendment would not substantially alter the terms and conditions to such an extent that it could be alleged that the contract is no longer conformant with the framework agreement and therefore not compliant with EU Directives.

Service and management provisions

9. Can we dictate what services we can purchase from the contractor?

Organisations can only select the services that are in scope for this framework.

10. Can we see the full specification for the service?

Yes. The specification and service levels schedule is available. Both of these can be accessed via the Scottish Procurement [Knowledge Hub](#) site or your sector representative.

11. What are the contract management provisions?

The framework will be managed overall by Scottish Procurement, who will be responsible for regular contractor review meetings covering escalated issues, key performance indicators (KPIs), benchmarking and innovation. Organisations will be required to manage the day-to-day operational aspects of their contract with their contractor. Please see schedule 4 – management arrangements. This can be accessed via the Scottish Procurement [Knowledge Hub](#) system or via your sector representative.

12. Is there a process for providing feedback back into Scottish Procurement on issues and the contractors performance?

Scottish Procurement is committed to managing, monitoring and developing contractor performance and understanding whether our contracts are delivering and meeting the needs of our customers and customer feedback is an essential part of the process. It is proposed that a balance scorecard will be utilised to monitor performance. Feedback and escalation processes will support the framework and robust management information from all contractors will cover several performance measures.

13. Will a copy of the contractor's catalogue be available?

Yes - it will be available from Scottish Procurement's secure [Knowledge Hub](#) site. Access can be obtained by emailing scottishprocurement@gov.scot.

14. Will management information will be provided by contractors as part of the framework?

Yes, management information will be provided by contractors throughout the lifetime of the agreement. Management information will be provided to both the contracting organisation and Scottish Procurement on a monthly or quarterly basis as specified.

15. Are there performance related criteria in the new framework?

As part of the overarching terms and conditions target key performance indicators (KPI) have been agreed. Organisations can also supplement these KPIs within their contracts through mini competition.

16. Does the framework consider Workforce Matters?

For more information on 'Workforce Matters' please see the attached Scottish Procurement Policy Note [SPPN 1/2015](#).

Award process

17. My current contractor is not on the framework; can I to invite them to bid?

No. If you decide to use a framework only the contractors listed on the framework can be invited to bid.

18. Do I need to run a mini competition?

No, direct award is available through the framework but only using the rate cards. Where contracting authorities are able to determine which contractor offers best value for money, the customer organisations can simply place an order on the successful contractor as per the instructions outlined in the ordering procedures and order form (see section 4 – Supplementary Information) and in line with the Standard Terms of Supply (schedule 5)

The mini competition route may offer organisations the potential to achieve bespoke solutions and services to suit their specific requirements when there is a clear need to articulate their actual business requirement before costs can be established and may also result in improved value for money for the customer. More detail can be found in schedule 3 – award and order schedule. This can be accessed via the Scottish Procurement [Knowledge Hub](#) system or via your sector representative.

19. Who is responsible for running a mini competition?

The individual organisation will be responsible for running the mini competition although Scottish Procurement can provide guidance if required.

20. How will organisations conduct a mini competition?

The contracting authority will develop a specification, using the specification template where applicable, which should provide the relevant details to enable contractors to respond.

The contracting authority will invite all contractors to tender for services by issuing the mini competition specification to each contractor on the framework. This may be carried out using the Public Contracts Scotland – Tender system, or using other appropriate procurement processes. The contracting authority must evaluate all responses submitted by the framework contractors by applying the award criteria specified.

21. What award criteria should be used?

The award criteria which can be applied to further competitions will cover both cost and quality of service and will be stipulated in the mini competition tender documentation. The weightings and specific criteria will be determined by the contracting authority and this may vary from the framework award criteria/weightings. It is dependent on the specific requirement.

Pricing and invoicing arrangements

22. How long is pricing held for?

Framework prices will not be increased during the first 24 months of agreement, but may be reduced by the agreement of both parties.

23. I am a small organisation can I still benefit from these prices?

Yes, the contractors published framework pricing is available to all organisations regardless of size. The prices provided are the maximum price any customer organisation using the framework agreement would expect to pay when making a call-off from this agreement. Contracting authorities conducting further competition could receive responses lower than those shown in the price list, but not higher than.

24. How can I easily compare the prices on this framework with what I am currently paying?

Scottish Procurement has developed a document which details a summary of all service providers offerings and pricing to assist organisations in comparing pricing which is available on our secure [Knowledge Hub](#) system.

25. What are the invoicing arrangements?

You need to be absolutely clear about what you expect your payment profile to look like up front and write this into the agreement between yourselves and the contractor. There is a term within schedule 5 that enables the you to vary the invoicing frequency rendered by the contractor and this will help you to tailor your payment profile to your specific requirements.

Contractors have been asked to provide eInvoicing and payment via purchasing card (if required) and you must pay all sums due to the contractor within 30 days of receipt of a valid invoice.

Interest is payable on the late payment of any undisputed sums of money in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

Further details can be found within the Standard Terms of Supply (schedule 5) at section 12 - payment and invoicing.

Annex A – Mini competition guidance

Listed below are considerations and a good practice checklist to assist when conducting a mini competition under the framework agreement.

- You must ensure that the mini competition process is conducted in an open, fair and transparent manner at all times and that the award criteria is used, for example, most economical advantageous tender (MEAT).
- You must award the contract to the contractor who has submitted the most economical advantageous tender (MEAT) on the basis of the mini competition award criteria. Weightings can vary to reflect the particular requirement.
- Core terms of the framework agreement cannot be renegotiated; however terms can be supplemented or refined to reflect the particular circumstances of the order, for example, delivery timescales and payment terms. Framework terms can be accessed via the Scottish Procurement [Knowledge Hub](#) system or via your sector representative.
- A mini competition involves issuing a request to all contractors within the framework agreement capable of meeting the particular need. Do not assume that a contractor cannot meet a particular need unless the framework makes this explicitly clear.
- When using the quick quote facility within Public Contracts Scotland (PCS), please ensure that only those suppliers on the Scottish Procurement framework agreement are invited to respond.
- Contracting authorities do not have to follow the standstill rules when awarding a call-off contract under the framework agreement, whether by direct award or mini competition. However, they may choose to follow the standstill rules on a voluntary basis (giving summary reasons) when awarding an above-threshold contract by mini competition in order to protect themselves from an ineffectiveness order in the event of a legal challenge.

Good practice check list

- ✓ Devote sufficient time to manage the mini competition process effectively.
- ✓ Allow adequate time for the contractor to respond to the mini competition.
- ✓ Where applicable, ensure your estate is surveyed properly before issuing out your mini competition documents.
- ✓ Use only the Standard Terms of Supply (schedule 5) under the framework agreement. You can reference out to the order form which is a lot more straightforward for smaller pieces of work. You may only refine and supplement the framework terms.
- ✓ Ensure your evaluation criteria and weightings are detailed in your mini competition documentation.
- ✓ Consult colleagues in your respective procurement areas for advice and guidance (and legal advisers if necessary).
- ✓ Ensure you have an exit strategy.
- ✓ Treat all contractors equitably.
- ✓ Where applicable, consider using the Public Contracts Scotland Portal to issue and receive your mini competition documents.
- ✓ Keep the process and documentation simple and auditable.
- ✓ Ensure you are able to compare contractors equably from their mini competition submissions against your criteria.
- ✓ Agree a single point of contact for your organisation.
- ✓ Do endeavour to draft mini competition documentation sufficiently clearly and precisely to enable contractors to put forward their best offer without significant clarifications being necessary.
- ✓ Keep mini competition documentation to a reasonable size.

Availability

The framework agreement is available for use by all Scottish public and third sector bodies.