

Cracking the framework

What exactly is a framework contract and what does it involve? PASS Consultant **Eddie Regan** answers your queries.

Q What is a framework contract?

A Basically the terminology 'framework contract' is used to cover agreements not covered by the definition of a contract to which the UK and Scottish Public Contract Regulations apply, although they may contain certain contractual provisions. Framework contracts will normally detail the terms and conditions for call-offs from the frameworks, and will also ensure that contractors on the framework are aware that procurers are under no obligation to purchase anything.

A framework contract is therefore an agreement with contractors, which establishes the terms and conditions governing contracts to be awarded during a given period.

Q What does the EU Directive say about frameworks?

A EU Directive 2004/18/EC defines a framework contract as "...an agreement between one or more contracting authorities and one or more economic operators, the purpose of

which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged." It also defines part of the process for setting up a framework contract: "...when a contracting authority enters into a framework agreement in accordance with the provisions of this Directive relating, in particular, to advertising, time limits and conditions for the submission of tenders, it may enter into contracts based on such a framework agreement during its term of validity either by applying the terms set forth in the framework agreement or, if all terms have not been fixed in advance in the framework agreement, by reopening competition between the parties to the framework agreement in relation to those terms.

"The reopening of competition should comply with certain rules the aim of which is to guarantee the required flexibility and to

guarantee respect for the general principles, in particular the principle of equal treatment. For the same reasons, the term of the framework agreements should not exceed four years, except in cases duly justified by the contracting authorities."

Q Is there any useful literature on framework contracts?

A The European Commission has produced an Explanatory Note on Framework Agreements which can be downloaded from: http://ec.europa.eu/internal_market/publicprocurement/docs/explanatory-notes/classic-dirframework_en.pdf

The Office of Government Commerce has also published a useful guidance on framework contracts covering a range of aspects including 'Setting up a framework agreement' and 'Examples of framework agreements'. This can be downloaded from: www.ogc.gov.uk/documents/guide_framework_agreements.pdf



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Eddie Regan is BiP Solutions' Senior Procurement Consultant and assists public sector organisations with clarification and interpretation of EU Directives and a wide variety of legislative issues. He is also lead consultant on BiP's PASS Mark Health Check service and provides in-house training on the tendering process – law and practice – to personnel in both the public and private sectors, including several multinational organisations.



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