

# GUIDELINES FOR FRAMEWORK AGREEMENTS

## 1.0 INTRODUCTION

### 1.1 What are Framework Agreements?

A **Framework Agreement (FWA)** is not a contract; it is an offer from a potential supplier to provide goods and/or services at pre-arranged prices, under set terms and conditions, when and if required. It is an instrument of understanding that contains terms and conditions (clauses) applicable to Call-offs/Purchase Orders (contracts) issued under the FWA. No contract exists until the entity issues an order or "call-off" against the Framework Agreement.

A Framework Agreement (FWA) is an instrument of understanding between a buyer and a supplier/contractor/consultant containing terms and conditions applicable to Call-offs/Purchase Orders (contracts). It is normally based on an offer from a potential supplier/contractor/consultant to provide goods, works and/or services at pre-determined prices for a specified period of time when and if required, under set terms and conditions. No contract exists until an entity issues an order or "call-off" against the Framework Agreement established.

Some Framework Agreements contain **minimum** and **maximum** quantities, and the entity's obligation covers only the minimum quantity. The supplier is however obligated to supply up to the maximum if there are call-offs.

### 1.2 When are they used?

FWAs are used when one or more entities repeatedly order the same goods, works or services; the actual demand may not be known in advance. It is also used when a need is anticipated for a range of goods, works or services for a specific purpose, but the actual demand is not known at the outset and delivery is to be made when a requirement arises.

### 1.3 Why are they used?

The FWA is used because it is a convenient method of supply that saves time and money. **Once an FWA is in place, the entity that needs the goods, works or services deals with the supplier directly, and not with the FWA administrator (provided that any**

**group of entities decide to consolidate their requirements to establish such an Agreement).** Call-offs against an FWA have a faster processing time and reduced paper work because prices and terms have been settled in advance and there is no need for further negotiation. From the taxpayers' point of view, the advantages are lower administrative costs and less need for entities to carry inventory.

## **2.0 GENERAL RULES OF APPLICATION**

a. The items to be procured must satisfy the following:

- Strong and on-going (continuous or repeated) demand over a period of time from various Entities, or
- The timetable or scope of work cannot be fully provided for in a normal procurement contract, or
- Where for economic, technical or financial reasons, the frequency or extent of the Entity's requirements cannot be determined with sufficient accuracy in the tendering documents.

**Examples:** Spare parts for routine equipment maintenance, office supplies such as stationery and pens, and medical supplies such as bandages are common examples of the types of goods that might be purchased under a framework transaction. Routine maintenance services, like plumbing and electrical repairs, are some of the types of technical service needs that may be procured efficiently under framework transactions.

Generally, across entities, common-use items should come under FWAs.

b. Framework agreements shall be used in a way that:

- I. maximizes value for money outcomes for government;
- II. there is transparency and fairness;
- III. will not prevent, restrict or distort competition;
- IV. there is accountability;
- V. provides a degree of certainty for the suppliers without diminishing competition;
- VI. Contract set-up and other costs are minimized through a standard common contract arrangement.

The basis for establishing FWA for goods and services is aggregated and aligned user demand. Maximising the aggregated demand for particular goods or services will, in the majority of situations, make them more attractive to tenderers, resulting in better value for money tender responses. Unless it is clearly shown not to be the best-value option, the approach is to maximise aggregated demand and **award the tender to the best tenderer**. Where this is not feasible and/or does not provide value for money, the award can be made to more than one tenderer, but the number of suppliers on the panel should be minimized.

*Well-defined and well-understood roles and responsibilities, supported by clearly defined lines of communications and collaborative relationships, are key success factors in FWA management.*

- c. Entities to be considered under the FWAs shall provide evidence of their budgetary approvals.
- d. Each FWA shall cover a period of **12 months/ a year** maximum.
- e. FWAs for both single- and multi- suppliers can be used.
- f. The process for framework contracting is in two stages;
  - **Stage 1** involves pre-qualifying contractors / suppliers and entering into the framework agreement, and
  - **For Stage 2**, the Entity will issue specific contracts to contractors/suppliers based on the terms in the framework agreement, as they call for supplies.

### **3.0 WAIVER**

Where an item is covered by a FWA, Entities can only procure the item from another source when all of the following conditions are met:

- The FWA gives the Entities the right to procure items that are covered by the FWA through a separate competitive procedure, whenever PPA deems it to be in the best interest of the nation.

- The PPA determines that the non-contracted supplier's material or service is comparable to the material or service on the FWA.
- PPA determines that significant savings can be realized through a separate competitive procurement.
- PPA approves the separate competitive procurement in writing.
- The requested material or service is procured through an appropriate method of procurement.

## 4.0 FRAMEWORK AGREEMENT CONTRACTING PROCESS

### 4.1 PHASE I

This phase involves clustering of entities homogeneously (in the same sector) with one capable entity designated as the Lead Entity, to establish FWAs on behalf of itself and others (who can constitute a cluster). A Framework Agreement Manager should be appointed by the Lead Entity (LE). The management of the FWA will be successful when there is a high level of cooperation and mutual support between the FWA manager, cluster entities and procurement managers.

#### *The foregoing is applicable to the cluster system*

Otherwise, an Entity could, where circumstances permit and are advantageous, establish a FWA on its own behalf only without the inclusion of other Entities, even if within the same sector. In this case the Procurement Unit within the Entity shall manage the FWA.

#### 4.1.1 Stage 1.

- a. The usual **COMPETITIVE** procurement methods (NCT, ICT, etc.) shall be applied as appropriate in accordance with Act 663.
- b. For a selected item for FWA, the procurement plan will indicate the maximum quantity (value) needed for the year. This quantity shall be considered as the maximum quantity (or value, where quantity cannot be indicated) in the tender document.
- c. The Entity shall indicate a minimum quantity (or value) for each item, based on its previous demand.

d. The Entity shall procure at least the minimum quantity (or value).

e. When the Entity identifies the need for a framework arrangement, it will define the scope and the end date; the scope identifies the extent of work that is covered by the contract. The Entity /Lead Entity prepares documents for inviting tenders for the Framework Agreement and shall include the following among the terms of the tender documents:

- The subject matter of the tender;
- The framework information -- contains information about the management of the framework agreement. It will include the need for co-ordination meetings and other commitments which do not attract any payment;
- The selection procedure – how the contractor/supplier is to be selected;
- The quotation procedure – how the contractor/supplier is to prepare the quotation for a proposed work/supply package. The price shall be established through the Stage 1 process;
- A statement that the price shall be firm for the duration of the FWA, except where economic conditions necessitate a revision, in which case prices could be adjusted using processes spelt out in the FWA;
- A statement that the delivery schedule is only indicative;
- The Entity must also describe the information required from tenderers for preparing a quotation – the quotation information – and other materials needed to assess tenders or manage the Framework Agreement;
- General terms and conditions of contract;
- A statement that delivery or performance shall be made only as authorised by call-offs made by the listed procuring entities or by the procuring entity. The Supplier shall furnish to the procuring entity(ies) when and if ordered, the goods, works or services specified in the FWA up to and including the quantity designated in the

FWA as the '**maximum**'. The procurement entity shall order at least the quantity of goods, works or services designated in the contract as the '**minimum**'. The minimum quantity shall be estimated by each entity on the basis of its past demand.

- The Entity shall specify the minimum lot size for a specific procurement (call-off) under the FWA;
- The term for the FWA; that shall be one year, or as determined to be feasible depending on the nature of the item(s) being procured or economic conditions.

f. For the first Phase FWAs, tenders submitted will be evaluated by the Entity or Lead Entity in accordance with existing provisions in Act 663, and the best tenderer awarded the Framework contract. This ends **Stage I**.

#### **4.1.2 Stage 2 (Call-off Contracting)**

In Stage 2, since price is already established in the FWA, specific contracts (Call-offs) shall be awarded on the basis of the FWA, as Entities make requisitions.

Where an Entity awards a specific contract based on a Framework Agreement, it shall comply with the procedures set out below, and apply these procedures only to the contractors/suppliers that are party to the Framework Agreement:

- a. When awarding a specific contract on the basis of a Framework Agreement, neither the Entity nor the contractor/supplier shall include in that contract, terms that are substantially different from the terms laid down in that framework agreement.
- b. Where the Entity concludes a framework agreement with one contractor/ supplier:
  - It shall award any specific contract within the limits of the terms laid down in the framework agreement; and

- In order to award a specific contract, the Entity shall communicate the order in writing directly to the contractor/supplier that is party to the framework agreement.

c. The specific contract shall be in the form of the Entity's usual purchase order/contract.

d. At the expiry of term of the framework agreement, the Entity shall compile a performance assessment of the contractors / suppliers under the FWA. This report shall be filed appropriately by the Entity and used to grade suppliers, determine which have performed creditably and which have not, clearly stating reasons for such classification. The report shall be forwarded to the Lead Entity (where a Cluster system is used for its records and usage as indicated above. It shall inform the Entity on the future involvement of the contractor / supplier in FWAs, and also form a basis for compiling a list of reliable prequalified contractors / suppliers.