Procurement Processes

Framework Agreement

A Framework Agreement is a general term for an overarching (or umbrella) agreement with supplier(s). The Framework Agreement sets out the terms and conditions under which specific purchases (call-offs) can be made throughout the period of the agreement. The terms normally include price, quality, quantities and timescales as well as details as to how the Framework Agreement call offs can be made.

A Framework Agreement can be put in place between one or several buying organisations and one or several suppliers. Only the buying organisation(s) listed in the Framework Agreement can use it to put in place their own contracts. Once the Framework Agreement has been put in place no further suppliers can be added to the Framework Agreement.

Framework Agreements can help suppliers to participate in national and large collaborative contracts where the framework is often divided into specialist or geographical lots.

A lot is where a procurement process separates a procurement exercise into smaller categories e.g. type of product or service, geographical location.

The value of the framework is the estimated value of all call offs envisaged to be awarded under the agreement during its duration. The total value of call offs made by buying organisations cannot exceed the total Framework Agreement value.

The duration of the call-off contract may extend past when the date when the Framework Agreement ends as long as this is in accordance with the Framework Agreement terms and conditions. The end date of any call off contract must be stated in the Framework Agreement procurement documents.

A Framework Agreement itself is not a contract and therefore it is not a guarantee of work to the framework's suppliers.

The procurement exercise which puts a Framework Agreement in place is subject to procurement legislation.

An example of a Framework Agreement is:

- a Centre of Expertise puts in place a Framework Agreement for office furniture for 3 years to be used by all local authorities (Scottish Councils)
- the Framework Agreement is for a total value of £10 million
- the Framework Agreement includes the product lists for desks, chairs and cupboards with respective specifications and pricing. As well as other agreed terms e.g. lead time, delivery times
- the Framework Agreement is awarded to two suppliers: Supplier X for desks, supplier Y for chairs and cupboards
- A local authority has a requirement for desks for 2 years. They choose the items they want from the Framework Agreement and then contact Supplier X via the method listed in the Framework Agreement and "call off" the desks at the pre-agreed pricing they require
- The total call off value comes to £100,000
- The value available for future call offs from the Framework Agreement reduces by £100,000.

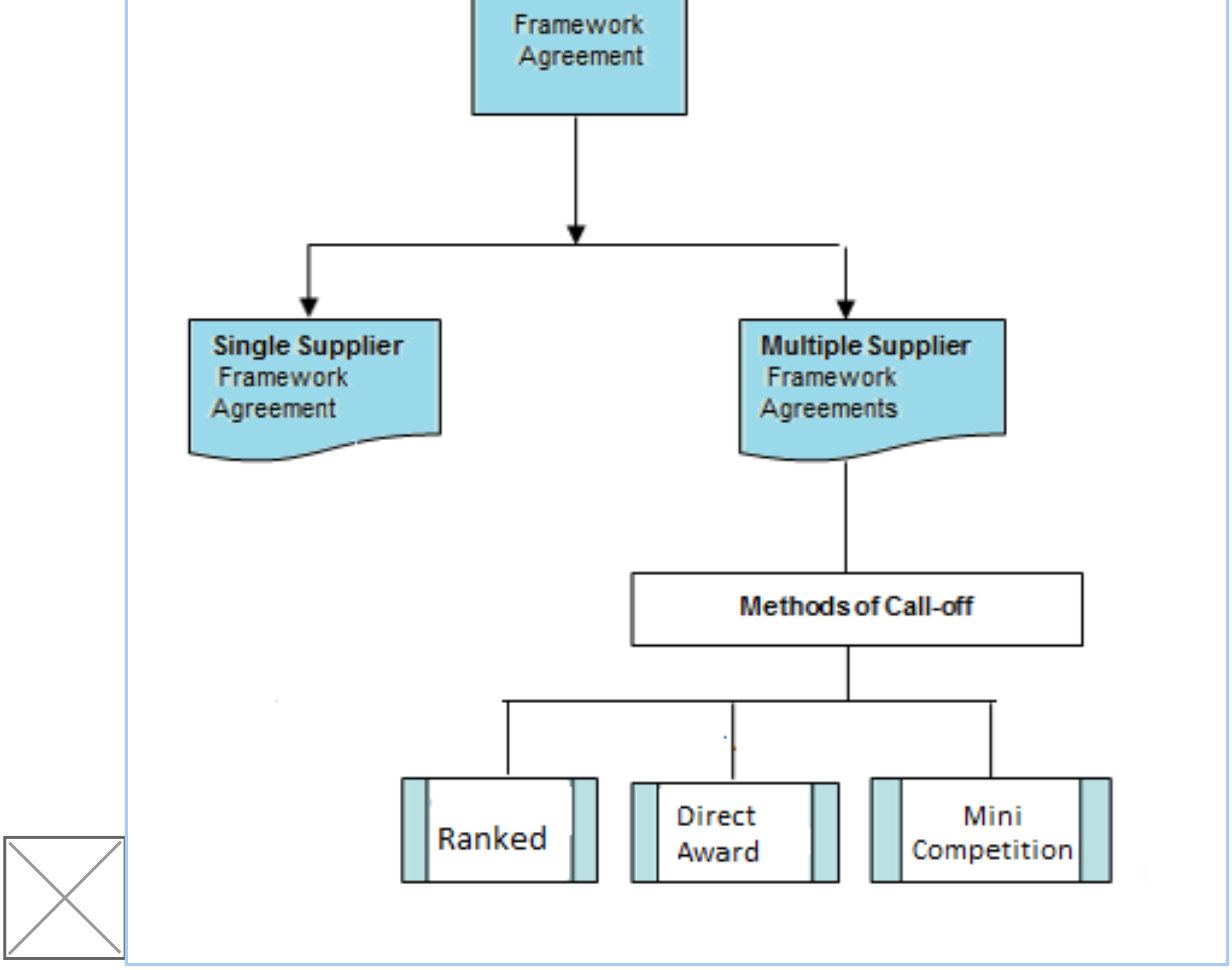
The Contract Notice published in Public Contracts Scotland, which advertises new requirements, will confirm:

- whether the Contract Notice is for a Framework Agreement
- who is running the procurement exercise
- the procurement processs being used
- which public bodies can use the framework.

The Framework Agreement does not bind any public body to purchase goods or services from it – the public body can decide to use the Framework Agreement or not. If the public body does not consider that the Framework Agreement provides value for money it can choose to award a contract outside of the Framework Agreement.

Types of Framework Agreement

Framework Agreements (and their resulting call-offs) can be set up in several ways, dependent on the requirement and the market, as shown in in the diagram below:



Framework Agreements can take one of two forms:

- a single supplier framework
- a multi-supplier framework

Single Supplier Framework Agreement

For a Single Supplier Framework Agreement all goods and services covered by the Framework Agreement have been awarded to one supplier. Any call-offs are made from this one supplier at the agreed Framework Agreement prices and terms. Once the Framework Agreement has been put in place no further suppliers can be added.

Multi Supplier Framework Agreement

In this case the Framework Agreement has been awarded to several suppliers this can either be for the whole Framework Agreement or, if the Framework

Agreement is broken down into lots, then there could be differing suppliers for each lot. Once the Framework Agreement has been put in place no further suppliers can be added to it.

Call offs from the Framework Agreement can be made in several ways:

Direct Award

The Framework Agreement has been set up for the supply of various goods and services to different suppliers. This can be done by awarding separate lots. Much like the single supplier process, once the buying organisation has identified which goods and/or services they require they will then approach the nominated supplier(s) directly to purchase the goods and/or services at the Framework Agreement's terms (including prices).

Ranked

The Framework Agreement ranks the suppliers i.e. 1, 2, 3, etc. for supplying specific goods and services. When the buying organisation wants to call-off they will approach the supplier ranked number 1 (for the goods/services required) first to procure their requirements at the Framework Agreement's terms (including prices). Only if the supplier ranked number 1 cannot supply when required, the buying organisation will then approach supplier ranked number 2, and so on.

Mini Competition

This is where not all the terms are set out in the Framework Agreement e.g. it may not have agreed prices. In thon is case the public body must run a mini competition (a new procurement exercise) between the suppliers that are capable of performing the proposed call-off contract.

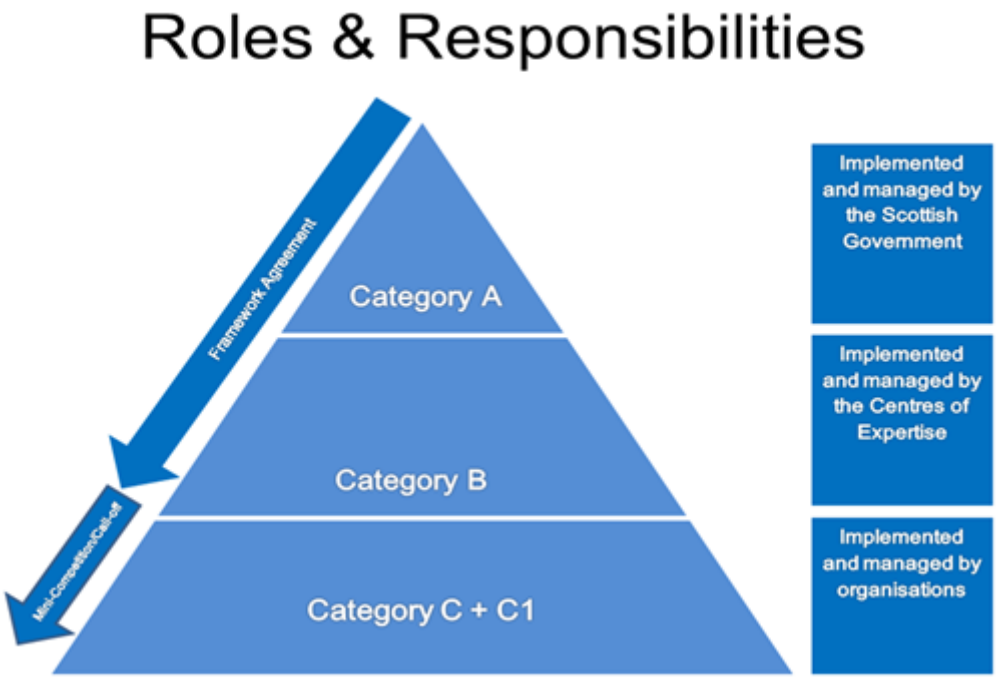
As the name suggests a mini competition is a smaller “mini” procurement exercise as many of the terms will have already been agreed in the Framework Agreement. However buying organisations can add new terms to this mini-competition as long as it covers areas that the Framework Agreement allows for and these terms do not conflict with the original terms of the Framework Agreement.

Under a mini-competition the Framework Agreement suppliers will bid for the new requirement. The call-off contract must be placed with the bidder who has

submitted the best bid in accordance with the mini-competition award criteria.

It is important that suppliers understand that being part of a multi-supplier framework is not a guarantee of business - you may still have to compete and be successful in mini-competitions.

Per the diagram below, it is more likely for a Framework Agreement to be put in place by a Centre of Expertise: to use nationally or by sector. Call offs and mini competitions are then made by the individual buying organisations. However this is not always the case i.e. one buying organisation can put in place their own Framework Agreement or several buying organisations can collaborate and put in place their own Framework Agreement.



Dynamic Purchasing System

A Dynamic Purchasing System (DPS) is another process available. The DPS It has some aspects that are similar to Framework Agreements, but the Contract Notice will remain open throughout the lifetime of the DPS meaning that new suppliers can join at any time.

It has to be run as a completely electronic process, and should be set up using the Restricted Procedure and some other conditions.

Public bodies may set up a DPS which may be divided into categories for goods or services.

DPS Process

The DPS is a two-stage process. First, in the initial setup stage, all suppliers who meet the selection criteria, and are not excluded, must be admitted to the DPS. This is assessed through the completion of a Single Procurement Document (SPD) by all interested suppliers.

Public bodies must not impose any limit on the number of suppliers that may join a DPS.

Individual contracts are awarded during the second stage. In this stage, the public body invites all suppliers on the DPS (or the relevant category within the DPS) to bid for the specific contract.

Video Guide

Video Guide

Dynamic Purchasing System

Reserved Contracts - Supported Businesses

It is possible for a buyer to “reserve” a procurement exercise so that the call-off contract or part of it e.g. a lot or lots, can only be supplied by a Supported Business or Businesses.

A Supported Business is an organisation:

- whose main aim is the social and professional integration of disabled and disadvantaged workers and
- where at least 30% of their workforce are classed as disabled or disadvantaged workers.

For a reserved contract all of the normal procurement rules apply, including being subject to all procurement legislation.

If a contract is to be a reserved contract then this must be stated within the Contract Notice.

Reserved Contracts - Certain Health and Social Care Services

A procurement officer can also reserve a public contract, framework agreement or specific lot for certain health and social care services to qualifying organisations.

The full definition of a qualifying organisation is set out in regulations but for example this will include, although may not be limited to:

- charities
- voluntary organisations
- social enterprises; and
- registered social landlords

Qualifying organisations **will not** include other public sector organisations, agencies, or non-departmental public bodies e.g. Audit Scotland.

It is for procurement officers to satisfy themselves that bidders meet the criteria set. Suppliers should be ready to share evidence of how you meet it in case asked.

The Public Contracts Scotland CPV codes for the services that can be reserved are:

- 75200000-8 - Provision of services to the community
- 75231200-6 - Services related to the detention or rehabilitation of criminals
- 75231240-8 - Probation services
- 79611000-0 - Job search services
- 79622000-0 - Supply services of domestic help personnel
- 79624000-4 - Supply services of nursing personnel
- 79625000-1 - Supply services of medical personnel
- codes in the range beginning with 85000000-9 and ending with 85323000-9 covering health and social work services
- 98133000-4 - Services furnished by social membership organisations

- 98133100-5 - Civic betterment and community facility support services
- 98200000-5 - Equal opportunities consultancy services
- 98500000-8 - Private households with employed persons
- Codes in the range beginning with 98513000-2 and ending with 98514000-9, covering home help, household, and domestic services.

eAuction

An eAuction is an online auction where suppliers use internet-based software to bid against each other in real time against a published specification from the buying organisation.

eAuctions occur towards the end of the procurement process, after full evaluation of tenders have taken place. The buyer may conduct an eAuction based on price and/or values of features from the specification to identify the most economically advantageous tender

When are eAuctions used?

Buyers will sometimes use eAuctions when:

- the requirement is of sufficient size to attract competition
- the requirement can be accurately specified
- the product or service is easily specified/compared e.g. office stationery
- there is a competitive market.

An eAuction can be used in conjunction with:

- The Open Procedure
- The Restricted Procedure
- Competitive Procedure with Negotiation
- To conduct mini-competitions under a Framework Agreement
- A Dynamic Purchasing System.

An eAuction may not be used:

- in public services or public works contracts whose subject matter involves intellectual performance, such as the design of works;
- to prevent, restrict or distort competition;

- for some services, for which it is not suitable, such as complex service contracts.

If a buyer intends to conduct an eAuction they will make that clear in the Contract Notice and details of the process will be included in the specification for the requirement.