

MULTI-PARTY FRAMEWORK AGREEMENT FOR ENERGY EFFICIENCY RETROFITTING WORKS TO SOCIAL HOUSING STOCK

THIS FRAMEWORK AGREEMENT is made on _____
BETWEEN

Kerry County Council of County Buildings, Rathass, Tralee, Co. Kerry, Local Authority (hereinafter called "**KCC**") of the One Part and

Contractor _____ having
its registered address at _____
_____ of the Other Part.

Supplier/Contractor ID on www.LAQuotes.ie system: _____

THE FRAMEWORK PURCHASER AND THE CONTRACTOR AGREE as follows:

KCC is a central purchasing body within the meaning of Directive 2004/18/EC of the European Parliament and Council. KCC enters into this Framework Agreement on its own behalf and on behalf of all local authorities in Ireland as listed in Schedule 3 hereto ("**the Framework Purchasers**") that may wish to procure energy efficiency retrofitting works to social housing stock. The Contractor wishes to provide such works as may be described in a Request for Mini-Competition (the "**Works**"), in accordance with this Framework Agreement.

1. Entire Agreement

This Agreement together with:

- Instructions To Tenderers for Request For Tenders
- The Tender Submission
- Each relevant Request for Mini-Competitions
- Each relevant Purchase Order
- Public Works Short Form of Contract (PW-CF6)

shall constitute the entire contract (the "**Framework Agreement**") between the Contractor and each relevant Framework Purchaser with respect to the provision of the Works by the Contractor to a Framework Purchaser and shall prevail over and supersede all prior agreements, understandings, statements and communications between the Contractor and any Framework Purchaser with respect to any Works on or after the commencement of the Agreement. Without prejudice to the generality of the foregoing, the Framework Agreement shall apply to the exclusion of any terms and conditions which the Contractor may purport to apply at any time, whether contained in any acknowledgement of a Purchase Order or otherwise.

2. Works Contracts and Framework Period

The appointment of the Contractor to the Framework does not constitute a commitment or guarantee by any of the Framework Purchasers to procure any Works from the Contractor and does not confer any exclusivity on the Contractor. The Framework Purchasers may procure Works in other ways outside of the Framework from any Contractor or from other national/regional/local frameworks/tenders in place.

If, during the Framework Period defined in the attached framework Rules, the Framework Purchaser needs to procure energy efficiency retrofitting works to social housing stock, the Framework Purchaser may procure the work by awarding contracts (Works Contracts) according to the attached Framework rules.

If the Contractor is selected for any work according to the attached Framework Rules, the Framework Purchaser and the Contractor agree to enter a Works Contract in the terms established under this agreement.

Works Contracts will be on the terms of the Public Works Short Form of Contract (PW-CF6) as completed by the Framework Purchaser and the Contractor according to the attached Framework Rules.

The Framework Agreement shall commence 1st of April 2014 and shall be for a period of one year (up to 31st March 2015) with an option to extend for three further 12 month periods ending on 31st March 2018 (the “**Framework Period**”), unless it is otherwise terminated in accordance with the provisions of this Framework Agreement. Notwithstanding the expiry of the Framework Period, a Framework Contract that is not completed prior to the end of the Framework Period shall be governed by this Framework Agreement.

3. Framework Contracts

If a Framework Purchaser selects the Contractor to complete the Works in accordance with the Mini-Competition Procedure and Framework Rules in Schedule 4, the Contractor shall enter into a Framework Contract with the Framework Purchaser. Framework Contracts will be formed on the terms of the Public Works Short Form of Contract (PW-CF6) and by the issue of the Purchase Order (as defined in the Mini-Competition Procedure) by the individual Framework Purchaser to the Contractor following completion of the Mini-Competition Procedure.

Each Framework Purchaser shall be responsible for awarding Framework Contracts in accordance the Mini-Competition Procedure and KCC shall not have any responsibility or liability whatsoever or howsoever arising from the award of any Framework Contract or outcome of a Mini-Competition.

The Contractor shall perform all Framework Contracts in accordance with the requirements of this Framework Agreement, the terms and conditions of the respective Framework Contracts and in accordance with Irish law.

4. The Contractor’s Obligations

The Contractor shall provide the Works meeting the Specification, in accordance with the terms of the Framework Agreement.

The Contractor shall employ sufficient staff to complete the Works who shall be properly trained, skilled and qualified. Failure by the Contractor to meet its obligations under this Clause shall be considered a material breach of the Framework Agreement.

5. Payment

The Contractor shall send an application for payment which will include a Breakdown of the works carried out in dwelling, also including Quantities and Rates, to the Framework Purchaser’s appointed Employer’s Representative on completion of the relevant Works or at such other interval(s) as otherwise agreed in writing between the Framework Purchaser and the Contractor.

The Employer’s Representative will issue a Certificate in accordance with Clause 4: The Price and Payment of the Public Works Short Form of Contract (PW-CF6). The Contractor then submits an invoice for payment of the amount certified.

The Contractor’s invoice shall show the following information:

- The Contractors name and address
- The Contractors VAT Registration Number
- Invoice number and date
- The Framework Purchaser’s order number
- The RFT (Request For Tender) reference number from the LAQuotes system

- Location of where works took place.

The Contractor will be paid in accordance with the above Clause.

Each Framework Purchaser may retain or set off against the Price any amount owed to that Framework Purchaser by the Contractor on any account whatsoever.

If a Framework Purchaser determines at any time that the quality of any Works provided by the Contractor is of a standard below that required by this Framework Agreement, or that any Works in any other respect are not being rendered in accordance with this Framework Agreement, that Framework Purchaser will notify the Contractor accordingly and will be entitled to withhold a proportionate amount of any future payment due to the Contractor pursuant to this Framework Agreement until such time as the matter in question has been remedied to the reasonable satisfaction of that Framework Purchaser. The rights of each Framework Purchaser pursuant to this Clause shall be without prejudice to any other rights it may have under this Framework Agreement or at law, including the right of termination.

The Contractor shall provide a current Tax Clearance Certificate as defined in Section 1095 of the Taxes Consolidation Act 1997 prior to the first payment being made under this agreement. Payments will not be made until a current Tax Clearance Certificate is furnished to Framework Purchaser by the Contractor and the Contractor will not be entitled to and the Framework Purchaser will not pay any interest or penalties as a result of late payment caused by the Contractor's failure to provide a current Tax Clearance Certificate in a timely manner.

Wherever under this Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Framework Purchaser in respect of any breach of this Agreement), the Parties may agree to deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Agreement or under any other agreement or contract with the Framework Purchaser. Any overpayment by either party, whether of the Charges or of VAT or otherwise, shall be a sum of money recoverable by the party who made the overpayment from the party in receipt of the overpayment.

6. Confidentiality

The Contractor must not disclose to anyone:

- Official information as defined in the Official Secrets Act 1963 or
- Other information that the Framework Contractor notifies the Contractor is confidential

except as necessary to perform the Contractor's obligations under this agreement or a Works Contract or to comply with the law.

The Contractor's obligations under this clause are perpetual, and this clause survives termination of this agreement.

7. Performance Measurement

On completion of each Works Contract, and other times requested by the Framework Purchaser, the Contractor must collate and give then framework Purchaser the data necessary to demonstrate compliance with the performance indicators listed in the attached Performance Measurement Table.

The Framework Purchaser may review the Contractor's performance according to the attached Framework Rules and Performance Measurement Table. The Contractor must provide any information required by the Framework Contractor for this.

8. Termination

The Framework Purchaser may terminate this agreement by written notice to the Contractor:

- If a Works Contract with the Contractor is terminated or

- According to the attached Framework Rules or
- If the Contractor breaks this agreement or
- If any statement made by the Contractor in connection with the procedure by which this agreement was awarded to the Contractor was untrue when made or subsequently ceases to be true or
- Without cause, if the Framework Purchaser also terminates its agreement with the other Participants.

Termination of this agreement does not affect any Works Contract already entered.

The Contractor is not entitled to any payment because this agreement has been terminated.

9. Limitation on liability

Neither the Contractor nor the Framework Purchaser have any liability to the other under or in connection with this agreement for breach of contract, negligence, breach of duty or anything else. This does not affect their liability under any Works Contract.

10. Sub-Contracting

The Contractor shall not assign this Framework Agreement or any Framework Contract or sub-contract any aspect of the provision of Works to any third party without the prior written consent of the relevant Framework Purchaser or KCC. In the event of such consent being given, the Contractor shall remain fully responsible for the provision of the Works and the acts and omissions of the sub-contractor as if they were its own. The Contractor shall also maintain during the term of this Agreement and for 6 years thereafter records and documentation relating to the sub-contractor and the Services provided by it and shall make same available to the KCC upon request.

11. This Agreement

- Neither party may assign rights under this agreement
- This, and any Works Contracts, is the entire agreement between the Framework Purchaser and the Contractor about its subject matter. Neither between the Framework Purchaser nor the Contractor has relied on any agreement, understanding, or statement that is not written or referred to in this agreement.
- This agreement can only be changed in writing, signed by authorised representatives of the Framework Purchaser and the Contractor.
- This agreement is governed and to be construed according to Irish law.

SIGNED by Kerry County Council and the Contractor:

Signed on behalf of Kerry County Council by:

A duly authorised representative

Date

Signed on behalf of the Contractor by:

A duly authorised representative

Date

SCHEDULE 1 - The Works

Retrofitting of Existing Social Housing Stock shall comply with the specifications and requirements of the following:

- SEAI Better Energy Scheme Contractors Code of Practice and Standards and Specifications Guidelines Latest Version (Version 6.0 March 2013)
- The Current Irish Building Regulations
- NSAI Agreement Certification
- Relevant European and British Standards.
- Manufacturer's Instructions.
- S.R.54: Code of practice — Methodology for the energy efficient retrofit of existing domestic dwellings (Available to view on NSAI website and proposed issue in Q1 2014)

Retrofitting of Existing Social Housing Stock shall comply with the Specification in the Instructions To Tenderers Document for Request for Tenders and with any requirements set out in any Mini-Competition.

SCHEDULE 2 – DECLARATIONS (Please complete this schedule)

Contractor/Supplier ID on www.LAQuotes.ie system: _____

A.	Does the Contractor have employees?	Yes/No
B.	If yes to Question A, Is there a Pension & Sickness Scheme in place for the Employees?	Yes/No
C.	If no to Question B, was there a Pension & Sickness Scheme offered, but declined by Employees?	Yes/No
D.	I confirm that the Contractor complies with all statutory requirements in relation to PAYE and PRSI.	Yes/No
E.	I confirm that, if successful, the insurance requirements as outlined in the Instructions can be put in place and the online questionnaire relating to insurance at www.LAQuotes.ie will be completed by the Contractor's insurance company/broker	Yes/No
F.	I confirm that the Contractor is fully tax compliant and the holder of a current Tax Clearance Certificate.	Yes/No
G.	I confirm that the Contractor complies with Safety, Health and Welfare at Work Act, 2005	Yes/No
H.	I declare that details of Safe Pass Cards for all employees have been entered online at www.LAQuotes.ie and will be kept updated.	Yes/No
I.	I declare that the Contractors Online Questionnaire has been completed online at www.LAQuotes.ie	Yes/No
J.	I confirm that the Contractor will submit, when requested, a signed copy of the declaration set out in Schedule 4 (Personal Situation Declaration Form) of the Instructions, confirming that none of the circumstances set out in that Schedule apply to the Contractor.	Yes/No
K.	I declare that the Contractor complies with the Specification under Schedule 1 of the Instruction to Tenderers document(s).	Yes/No
L.	Does the Contractor intend to subcontract all or part of any works?	Yes/No
M.	I declare that the Contractor (including any parent, subsidiary or associated company of the Contractor or any director, partner or person in an equivalent position in the Contractor) (a) it is not engaged in any service or operation which relates or may relate in any direct way to the outcome of this Competition; and (b) there is no registerable interest involving the Tenderer or any sub-contractors and any of the members of Local Authorities their relatives.	Yes/No
N.	I declare that the Contractor is registered with SEAI as an approved Contractor	Yes/No
O.	I declare that the Contractor is registered with NSAI or equivalent as an installer and have appropriate certification for the products that it proposes to use for cavity wall insulation and/or external wall installation.	Yes/No
P.	I declare that the Contractor is a current member of the CIF or similar trade association for contractors.	Yes/No

Multi-Party Framework Agreement for the Energy Efficiency Retrofitting Works To Social Housing Stock

Q.	I declare that the Contractor is a current member of CWPS or equivalent scheme	Yes/No
R.	I declare that the Contractor can meet the minimum annual turnover of €25,000 per annum for Subcategory 1: 1-10 dwellings	Yes/No
S.	I declare that the Contractor can meet the minimum annual turnover of €50,000 per annum for Subcategory 2: 11-50 dwellings	Yes/No
T.	I declare that the Contractor can meet the minimum annual turnover of €60,000 per annum for Subcategory 3: >50 dwellings	Yes/No

Signed on behalf of the Contractor by:

A duly authorised representative(Company Name)

Date

SCHEDULE 3 - Framework Purchasers

Framework Purchaser
Cavan County Council & Town Councils within this County
Carlow County Council & Town Councils within this County
Clare County Council & Town Councils within this County
Cork City Council
Cork County Council & Town Councils within this County
Donegal County Council & Town Councils within this County
Dublin City Council
Dun-Laoghaire-Rathdown County Council
Fingal County Council
Galway City Council
Galway County Council & Town Councils within this County
Kerry County Council & Town Councils within this County
Kildare County Council & Town Councils within this County
Kilkenny County Council and Borough Council
Laois County Council & Town Councils within this County
Leitrim County Council & Town Councils within this County
Limerick City Council
Limerick County Council
Longford County Council & Town Councils within this County
Louth County Council & Town Councils within this County
Mayo County Council & Town Councils within this County
Meath County Council & Town Councils within this County
Monaghan County Council & Town Councils within this County
North Tipperary County Council & Town Councils within this County
Offaly County Council & Town Councils within this County
Roscommon County Council & Town Councils within this County
Sligo County Council & Town Councils within this County
South Dublin County Council
South Tipperary County Council & Town Councils within this County
Waterford City Council
Waterford County Council & Town Councils within this County
Westmeath County Council & Town Councils within this County
Wexford County Council & Town Councils within this County
Wicklow County Council & Town Councils within this County

Note:

Legislation is currently being drafted for the merger of Limerick City Council with Limerick County Council, Waterford City Council with Waterford County Council and North Tipperary County Council with South Tipperary County Council, which is scheduled to be enacted by the end of 2013, with the new structures to be in place after the local elections in May 2014. Town/Borough Councils are also being merged with their respective County Councils. This legislation will make provision for the transfer or distribution of the functions, property, rights and liabilities of these existing local authorities to their respective merged authorities. The transfer of administration functions in these authorities to their respective merged authority will be on-going from the start of 2014.

SCHEDULE 4 – MINI-COMPETITION PROCEDURE AND FRAMEWORK RULES

1. When the Framework Purchaser decides to procure Works through the Framework, the Framework Purchaser will send each Framework Participant capable of completing the Works (and who are compliant with the requirements of the Framework Agreement including the Specification) a request for mini-competition tenders (the “Request”). The Request will be sent by email only to each Framework Participant’s current email address as provided by the Framework Participant to KCC via www.LAQuotes.ie. The Request will include a draft Works Contract, based on the Public Works Short Form of Contract (PW-CF6).
2. The Request will include specific information about the Works required by the Framework Purchaser. The Request will fix a time limit for Participants to submit tender taking account of such factors as the complexity of the subject-matter of the Works Contract.
3. At mini-competition stage, Framework Participants will be required to submit fixed prices in accordance with the specific requirements of the mini-competition. The Request will set out which pricing method for the Works such as: – hourly rate, daily rate, price per job etc. The Framework Participants will be required to submit their prices online only through www.LAQuotes.ie.
4. The award process of Framework Contracts will be conducted in accordance with this Schedule 4 and any procedures stated in the Request. Tenders will be assessed in accordance with the following criteria which may be supplemented as appropriate in relation to the specific mini-competition requirements.
 - 4.1 Firstly, Tenders will be assessed to see if they meet the pass/fail criteria below as may be supplemented or amended depending the specific service requirement of the Mini-Competition. Any Contractor that fails to meet the required pass/fail criteria will be excluded from further consideration.

Selection Criteria for Mini-Competitions

<ul style="list-style-type: none"> • The Contractor has the required resources available. Details will be provided at mini-competition stage. 	Pass/Fail
<ul style="list-style-type: none"> • The Contractor can complete the Works Requirements within the stated delivery period. Details will be provided at mini-competition stage. 	Pass/Fail
<ul style="list-style-type: none"> • Confirmation that the requirements of the Specification is complied with in full. 	Pass/Fail
<ul style="list-style-type: none"> • The Contractor has provided evidence to demonstrate competence to carry out the role of Project Supervisor for the Construction Stage (PSCS) as specified by the Safety, Health and Welfare at Work (Construction) Regulations (where applicable, a detailed questionnaire will be included in the request for mini tenders for the purposes of assessing compliance with this criterion). 	Pass/Fail
<ul style="list-style-type: none"> • If requested at mini-competition stage that the Contractor has provided evidence that they are a member of CWPS or equivalent scheme 	Pass/Fail

4.2 Contractors that pass the criteria above will be assessed in accordance with the award criteria below. The Contractor that achieves the highest ranking score by reference to the award criterion below will be awarded the drawdown contract. It will be awarded based on the Lowest Price using the Public Works Short Form of Contract (PW-CF6).

Award Criteria	Percentage Weighting
Overall Price	100%

Where, after a competition, two tenders are level on marks, the Framework Purchaser reserves the right to either:

- i. Ask the drawn Contractors to resubmit prices and continue this process until there is a winner
- ii. To divide the contract between the two drawn Contractors.

Note: For the avoidance of doubt, individual Framework Purchasers can award Framework Contracts on behalf of one or more Framework Purchasers.

5. Performance Review, Termination and Promotion

5.1 On completion of each Works Contract, the Contractor concerned must collate and provide to the Framework Purchaser the information required for the Framework Purchaser to review that Contractors' performance according to the attached Performance Measurement Table. The Framework Purchaser review Contractors' performance of their Works Contracts and the Framework Agreement at the end of each year of the Framework period, according to the attached Performance Measurement Table.

5.2 If a Contractor has reached 'Failure Level 1' for any indicator to the attached Performance Measurement Table, the Framework Purchaser may give that Contractor a written Warning Notice and may exclude that Contractor from further competitions until the Contractor has demonstrated to the Framework Purchaser's satisfaction that it has implemented steps to redress the problem.

5.3 If a Contractor

- Receives two Warning Notices during the Framework Period or
- Has reached 'Failure Level 2' for any indicator according to the attached Performance Measurement Table

The Framework Purchaser may terminate that Contractor's Framework Agreement.

5.4 The Framework Purchaser may give Contractor details of the result of its annual performance review, and of the average results for each item and the average overall score.

Performance Measurement Table

No	Framework Purchaser objective	Indicator	Measurement Period	Failure Level 1 (Clause 5.2)	Failure Level 2 (Clause 5.3)
1.	Timely Commencement of the Works	Failure to commence Works on Site within the time specified by the Works Contract	Each 12 month Term of the Framework Agreement	X	
2.	Progress of the Works and Timely Completion	Failure to maintain reasonable progress on site or to achieve Substantial Completion of the Works by the Date for Completion of the Works specified in the Contract	Each 12 month Term of the Framework Agreement	X	
3.	Adherence to the Works Specification and the Directions/Instructions of the Employers Representative	Failure to adhere to the works specification or to follow the Directions/Instructions of the Employers Representative or their nominee	Each 12 month Term of the Framework Agreement	X	
4.	Quality Control	Failure to satisfy Employer's Representative on the quality materials and workmanship (standard of end product)	Each 12 month Term of the Framework Agreement	X	
5.	Address Defects	Failure to address defects in a timely and comprehensive manner.	Each 12 month Term of the Framework Agreement	X	
6.	Health & Safety Compliance	Failure to meet Health & Safety Requirements	Each 12 month Term of the Framework Agreement	X	
7.	Invoicing Compliance	Failure to meet the Contracting Authority's Invoicing requirements	Each 12 month Term of the Framework Agreement	X	
8.	Adherence to the Contracting Authority's Policies and rules	Failure to observe the Contracting Authority's Policies and Rules including the Child Protection Policy, Confidentiality, Code of Ethics, as detailed in the individual mini-tender documents etc.	Each 12 month Term of the Framework Agreement	X for a minor breach	X for a serious breach