

**Invitation to Tender (ITT):**

FRC Board Performance Review

Reference	FRC2023-0111 Board Performance Review
Date	25 <sup>th</sup> September 2023

## **Foreword**

The FRC is a vastly different regulator to that of four years ago, and it has been pleasing to hear from our stakeholders that our role as an assertive regulator is having the impact and influence that we consistently aim for. There's a lot for us to be proud of as an organisation. But there's still a lot to be done.

To support this journey, in my first year as Chair we commissioned an internal effectiveness review led by myself and the Company Secretary. This was supplemented by an internal audit on governance led by the Government Internal Audit Agency. I am pleased to report that both reviews found that the new structure is effective.

I am therefore delighted to invite you to submit your tender to conduct an external Board effectiveness review of the FRC. As a non-departmental public body sponsored by the Department of Business and Trade and owner of the Corporate Governance Code, we recognise the value and opportunities such a review can bring to enhance our Board and Committee effectiveness and support areas for improvement.

We are looking for a qualified and experienced provider to review the FRC's governance structure, the dynamics and relationships of the Board and its Committees and how it compares with other non-departmental public bodies.

Further details on the scope of the review can be found in the enclosed Invitation to Tender (ITT)

We look forward to receiving your proposals and working with you on this important project.

Your sincerely

A handwritten signature in black ink, appearing to read 'J. du Plessis', written in a cursive style.

**Sir Jan du Plessis**

**Chair of the Financial Reporting Council**

# 1. Background to the FRC

## *Our purpose, values and objectives*

- 1.1. The purpose of the Financial Reporting Council (FRC) is to serve the public interest by setting high standards of corporate governance, reporting and audit and by holding to account those responsible for delivering them.



- 1.2. Delivering on our purpose will bring a variety of benefits. Improved outcomes, created by each of our regulatory activities are shown in the circle; each of which can positively reinforce others in the circle and contribute to overall benefits for a wide range of stakeholders such as greater transparency, increased trust in UK markets and a lower cost of capital for companies.



- 1.3. Our direct stakeholders include companies, institutional investors, auditors, actuaries, accountants and their respective professional bodies. Our indirect stakeholders include

retail shareholders, suppliers, employees, customers, communities, pensioners and savers, and financial institutions, all of whom have an interest in the health of companies and other organisations within our existing and future regulatory scope and in the success of the UK corporate sector as a whole.

- 1.4. To support the FRC's plan and act in the public interest, the FRC's core objectives are to:
- Set high standards in corporate governance and stewardship, corporate reporting, auditing and actuarial work, and assess the effectiveness of the application of those standards, enforcing them proportionately where it is in the public interest.
  - Promote improvements and innovation in the areas for which we are responsible, exploring good practice with a wide range of stakeholders.
  - Influence international standards and share best practice through membership of a range of global and regional bodies and incorporate appropriate standards into the UK regulatory framework.
  - Promote a more resilient audit market through greater competition and choice.
  - Transform the organisation into a new robust, independent, and high-performing regulator, acting in the public interest.

### ***Our governance structure***

- 1.5. The FRC is a non-departmental public body of the Department for Business and Trade (DBT). Although funded by member and levy contributions, not by the taxpayer, the FRC is subject to public sector requirements and engages closely with other regulators and public bodies. All appointments to the Board are made by DBT.
- 1.6. The FRC Board meets approximately 8 times per year and also holds an annual strategy awayday.
- 1.7. The Board is supported by two governance committees. The Audit and Risk Committee and the People Committee. As well as three regulatory committees committee: Regulatory Standards and Codes, Conduct and Supervision. The Committees are populated by non-executive members of the Board.
- 1.8. Further information on the governance structure of the FRC can be found here:  
<https://www.frc.org.uk/about-the-frc/structure-of-the-frc>  
<https://www.frc.org.uk/about-the-frc/procedures-and-policies/governance-and-constitution>
- 1.9. Our office is based at 8th floor, 125 London Wall, Barbican, London EC2Y 5AS

## 2. The Effectiveness review

### ***Previous Effectiveness reviews at the FRC***

- 2.1. The FRC wishes to procure an independent review of its board that will build on the FRC's annual internal Board effectiveness reviews and the internal audit of the FRC's corporate governance conducted by the Government Internal Audit Agency in 2023. Further detail on the actions arising from Board's 2022/23 internal effectiveness review can be found at page 106 of the [FRC 2022/23 Annual report](#).
- 2.2. In line with the recommendations for FTSE 350 companies in the Corporate Governance Code 2018, the Board wishes to use an external facilitator to carry out an effectiveness review every third year. However, due to significant changes in Board membership and governance structure since 2018, the FRC's previous externally facilitated review was held in 2015-16.

### ***Current & Future challenges for the FRC***

- 2.3. The FRC is undergoing a significant Transformation in response to the recommendations of the Kingman, Brydon and CMA reviews in 2018 and 2019. The government has set out clear proposals for the FRC to become the Audit Regulation and Governance Authority (ARGA) and to take on more responsibilities supported by additional legislative powers in the next few years.
- 2.4. The Board is relatively new, with the two members appointed in June 2021 and the Chair and four other members appointed in February 2022. We are also in the process of recruiting three additional members to the Board.
- 2.5. Sir Jonathan Thompson stepped down as CEO in July 2023 and his replacement Richard Moriarty will start on the 2<sup>nd</sup> October 2023. In the interim our Deputy CEO and Executive Director of Supervision, Sarah Rapson, has been covering the CEO and Accounting Officer role. The CEO is the only executive member of the Board.
- 2.6. The FRC has confirmed its intention to open a second location in Birmingham as soon as possible and a new London office once the current lease on our 125 London Wall floor expires in 2025. This represents a significant period of change for our staff.
- 2.7. The FRC was appointed by the Department for Levelling Up, Housing and Communities (DHLUC) as shadow system leader for local audit (audits of local governments and NHS trusts) in the UK. This is a substantial new area for the FRC.

### **3. Scope of the review**

- 3.1. The FRC is seeking an independent external Board effectiveness review provider to objectively assess the effectiveness of the Board as per the Terms of Reference outlined below.
- 3.2. The Company Secretary and Deputy Company Secretary will act as key contacts throughout the review.

#### **The Approach**

- 3.3. The review aims to assess the performance, effectiveness, and governance practices of the FRC and provide valuable insights and recommendations to enhance the Board's functioning, decision-making, and overall effectiveness.

#### **Scope and Terms of Reference**

- 3.4 The review to focus on:
  - The composition and structure of the Board and its Committees.
  - The effectiveness of the Board and its Committees at agenda setting and forward planning to ensure efficient and effective meetings.
  - How the board and its committees support the Accounting Officer in meeting the requirements set out within [Managing Public Money](#).
  - The decision-making processes of the Board and its Committees.
  - The quality and timeliness of the information and materials provided to the Board and its Committees.
  - The Board's role in strategy development.
  - The roles, responsibilities, and performance of each Committee and how they contribute to and support the Board.
  - The interaction and collaboration between the Committees and the Board. This includes the dynamics and effectiveness of Board and Committee discussions, decision-making, and conflict resolution.
  - How the board's practices, relationships and culture compare with other Arm's Length Public Bodies.
  - The performance of individual directors, including the quality of their contribution and engagement.

- The interactions and communication between the Board and its Committees with the Executive, Senior Advisors and key stakeholders (e.g. Internal and External Audit).
- The cohesiveness, inclusiveness and quality of working relationships between directors.
- The Chair’s role in managing relationships with the members of the Board and management; leadership; promoting constructive debate and effective decision making.

## The Deliverables

3.5 The prospective provider will be expected to undertake an effectiveness review that as a minimum includes:

- A desk-based review of evidence (board papers, governance policies, minutes etc).
- Desktop review of the previous internal effectiveness reviews (Internal Audit and internal effectiveness review).
- Review of the quality of information provided to the Board and Committee to support discussions and decision making.
- Questionnaire to elicit individual member views prior to interview.
- One to one interview with the Board members, Company Secretary, key members of the executive and the internal and external auditor to probe competencies and contribution.
- Observation of at least one Board meeting and the three regulatory Committee meetings.
- Regular progress updates to the Company Secretary, Chair and Senior Independent Director (SID) throughout the contract.
- A draft outline summary report setting out the review’s initial findings and recommendations for discussion at a meeting with the Company Secretary, Chair and SID the week commencing 19 February 2024.
- The effectiveness review findings, analysis, and recommendations to be compiled into a comprehensive report. The report will be presented to the 14<sup>th</sup> March 2024 Board highlighting areas of strength and specific recommendations to enhance the Board’s performance, effectiveness, and governance practices, including benchmarking analysis.

## Timescales

3.6. A proposed timeline for the contract is provided below. All key dates should be agreed with the FRC Chair and Company Secretary in advance.

DATE/TIME	ACTIVITY
25 <sup>th</sup> September 2023	Publication of the Invitation to Tender
12:00 Noon on the 9 <sup>th</sup> October 2023.	Deadline to submit clarification questions
17:00 on the 11 <sup>th</sup> October 2023	Deadline for publication of responses to clarification questions Note: FRC will endeavour to meet this timeline.

12:00 Noon on the 16 <sup>th</sup> October 2023.	Deadline for supplier submission of tender to the FRC.
w/c 16 <sup>th</sup> October 2023	Company Secretary and Deputy Company Secretary shortlist up to three suppliers.
1 <sup>st</sup> November 2023	Chair, SID and Company Secretary review shortlist/ interview the three providers.  Please ensure that you are available for the following Interview date and times on the 1 <sup>st</sup> November 2023 <ul style="list-style-type: none"> <li>• 14:00-15:00</li> <li>• 15:15-16:15</li> <li>• 16:30-17:30</li> </ul>
w/c 6 November 2023	Contract awarded.

November to December 2023	Desktop work
January 2024	Questionnaire and interviews with Board members
23 January 2023	Observe Conduct Committee
1 February 2024	Observe Regulatory Standards and Codes Committee
8 Feb 2024 Board	Observe Board meeting.
w/c 19 February 2024	Draft Board Effectiveness report for Chair and Senior Independent Director review.
27 February 2024	Observe Supervision Committee
14 March 2024	Board and Committee Evaluation Report discussed at the Board and Action Plan agreed. External Provider to attend

### Costs

- 3.7. The estimated budget is £45,000 - £65,000 (plus VAT), the FRC will consider / evaluate all bids (below and above) the range.
- 3.8. The tender should provide a fixed fee for the scoped work within the Tender Response Documents, inclusive of all expenses but exclusive of VAT). Where the Tender Response

Document specifies a format for detail cost, please use the format specified. No other costs should be charged on top of quoted fixed fee, unless and except if the scope has materially changed from what is set out / agreed.

3.9. Changes to the scope / cost must be mutually agreed.

### Eligibility

3.10. The FRC observes the highest standards of impartiality, integrity and objectivity in relation to the regulatory activities undertaken by and the management of the FRC. The FRC therefore considers that accepting tenders from audit firms, accountancy/actuarial professional bodies and companies regulated by the FRC would conflict with this principle. Therefore these entities should not participate in this tender.

## 4. Your tender response

4.1. You should submit one proposal (using the provided Tender response document) addressing how you meet / propose to meet the FRC's four requirements listed below.

<b>Mandatory</b>		
	<b>Our Requirement</b>	<b>Tenderers Response</b>
1	Eligibility	<p>I/We certify that our organisation is not regulated by the FRC and therefore there are no restricting conflict of interest that would impact our ability to participate in this tender.</p> <p>Provider to confirm whether you actively apply the principals of Corporate Governance Institute's Code of Practice for Board Reviewers and/or a signatory to the Code.  <a href="https://www.cgi.org.uk/assets/files/2023/board-review/code-of-practice-for-board-reviewers-2023.pdf">https://www.cgi.org.uk/assets/files/2023/board-review/code-of-practice-for-board-reviewers-2023.pdf</a></p>
NB. Tenderers that do not respond as above are likely to Fail and not progress further.		

	<b>Our Requirement</b>	<b>You should demonstrate</b>
2	Understanding and Skills	<p>I /we confirm we have past experience (and transferrable skills) in delivering Services of this nature.</p> <p>Outline your understanding of the FRC's requirement, of the anticipated challenges and core transferable skills and experience in relevant industries.</p>

3	Methodology/Approach	A clear, well thought out methodology and approach. <i>Your response should ensure that as a minimum, the requirement (Scope and Deliverables) is fully covered. Also your ability to provide sufficient resources to deliver the requirement within the timescales required.</i>
4	Cost	A clear breakdown of costs.

### **Requirements weightings**

- 4.2. The evaluation panel will apply the following weightings when assessing the requirements above.
- i. Understanding and Skills 40%
  - ii. Methodology/Approach 30%
  - iii. Cost 30%
- 4.3. Tenderers must submit their tender response by 12 Noon on the 16 October 2023 to [procurement@frc.org.uk](mailto:procurement@frc.org.uk) .
- 4.4. A Tender Response Template has been provided and we ask that all potential providers align their tender response with that format.
- 4.5. A Tender must remain valid and capable of acceptance by the Authority for a period of 90 days following the Tender Submission Deadline. A Tender with a shorter validity period may be rejected.

## **5. Tender evaluation**

- 5.1. Bids will be scored on your ability to meet our requirements using the scoring approach: -

<b>Score</b>	<b>Criteria for awarding score</b>
0	<b>Unacceptable</b> Does not satisfy any part of the requirement. Does not comply with and/or insufficient information provided to demonstrate that the bidder has the ability, understanding, experience, skills, resource and quality measures required to provide the services, with little or no evidence to support the response.
25	<b>Poor</b> Satisfies only minor aspects of the requirement. Or can carry out some or all of the required services but not to a sufficient standard. Strong concerns over relevant ability, understanding, experience, skills, resource, and quality measures required to provide the services.
50	<b>Fair</b> Satisfies part of the requirement only, not the full requirement. Or can carry out all required services but not to a sufficient standard. Minor Concerns over relevant

	ability, understanding, experience, skills, resource, and quality measures required to provide the services.
75	<b>Good</b> Satisfies the requirement, with minor additional benefits. Supplier has the relevant ability, understanding, experience, skills, resource and quality measures required to provide the services, but the supplier has also provided relevant innovative methodology, or relevant added value services which will directly enhance the service required, giving minor additional benefit to FRC.
100	<b>Excellent</b> Satisfies the requirement, with major additional benefits. Supplier has the relevant ability, understanding, experience, skills, resource and quality measures required to provide the services, but the supplier has also provided relevant innovative methodology, or relevant added value services which will directly enhance the service required, giving major additional benefit to FRC.

- 5.2. The Company Secretary and Deputy Company Secretary will score all tenders based on above to create a shortlist of no more than three.
- 5.3. The FRC's tender review panel will comprise of the Company Secretary, FRC Chair and Senior Independent Director who will review and interview the top three scoring suppliers.
- 5.4. FRC will award the contract on the basis of the tender which best meets the evaluation criteria aligned to the requirements.

**6. Questions & Clarifications**

- 6.1. Tenderers may raise questions or seek clarification regarding any aspect of this further competition at any time prior to the tender clarification deadline of 12 Noon on the 9<sup>th</sup> October 2023.
- 6.2. Tenderers may raise questions or seek clarification within the timeframe by sending questions to [procurement@frc.org.uk](mailto:procurement@frc.org.uk) in the following format.

Nature of query / clarification	Query / Clarification

- 6.3. FRC will not enter into exclusive discussions regarding the requirements of this ITT with tenderers.
- 6.4. To ensure that all tenderers have equal access to information regarding this tender opportunity, FRC will publish all its responses to questions raised by Tenderers on an anonymous basis.

- 6.5. Responses will be published in a questions and answers document to all Tenderers who have indicated that they wish to participate.

## **7. Conduct and expectations of tenderers**

- 7.1. The tenderer must not communicate to any person the tender price, even approximately, before the date of the contract award other than to obtain, in strict confidence, a price for insurance required to submit the tender.
- 7.2. The tenderer must not try to obtain any information about any other person's tender or proposed tender before the date of the contract award.
- 7.3. The tenderer must not make any arrangements with any other person about whether or not they should tender, or about their tender price.
- 7.4. The tenderer must not offer any incentive to any member of FRC's staff for doing or refraining from doing any act in relation to the tender.
- 7.5. If the tenderer engages in any of the activities set out in this paragraph or if FRC considers the tenderer's behaviour is in any way unethical FRC reserves the right to disqualify the tenderer from the procurement.
- 7.6. The tenderer represents and warrants that a conflicts of interest check has been carried out, and that check revealed no conflicts of interest.
- 7.7. Where a conflict of interest exists or arises or may exist or arise during the procurement process or following contract award the tenderer must inform the FRC and submit proposals to avoid such conflicts.
- 7.8. Tenderers must obtain for themselves at their own responsibility and expense all information necessary for the preparation of tenders. The FRC is not liable for any costs incurred by the tenderer as a result of the tendering procedure. Any work undertaken by the tenderer prior to the award of contract is a matter solely for the tenderer's own commercial judgement.

## **8. Due Diligence**

- 8.1. While reasonable care has been taken in preparing the information in this ITT and any supporting documents, the information within the documents does not purport to be exhaustive nor has it been independently verified.
- 8.2. Neither FRC, nor its representatives, employees, agents or advisers:

- i. Makes any representation or warranty, express or implied, as to the accuracy, reasonableness or completeness of the ITT and supporting documents; or
- ii. Accepts any responsibility for the adequacy, accuracy or completeness of the information contained in the ITT and supporting documents nor shall any of them be liable for any loss or damage, other than in respect of fraudulent misrepresentation, arising as a result of reliance on such information or any subsequent communication.

8.3. It is the tenderer's sole responsibility to undertake such investigations and take such advice, including professional advice, as it considers appropriate in order to make decisions regarding the content of its tenders and in order to verify any information provided to it during the procurement process and to query any ambiguity, whether actual or potential.

8.4. It is a requirement that the successful supplier (i) comply with all applicable laws and regulations including, without limitation, the Bribery Act 2010, the Equality Act 2010 and the Modern Slavery Act 2015; and (ii) in addition to any contractual requirement(s), inform the FRC immediately upon becoming aware of any event (including actual or threatened court proceedings) which may impact upon the reputation of the FRC, whether or not connected with the Supplies and/or Services.

## **9. Acceptance of Tender & Notification of Award**

9.1. FRC reserves the right to amend, add to or withdraw all or any part of this ITT at any time during the procurement.

9.2. FRC shall not be under any obligation to accept the lowest price tender or any tender and reserves the right to accept such portion or portions as it may decide, unless the tenderer includes a formal statement to the contrary in the tender. FRC also reserves the right to award more than one contract to fulfil the requirement.

9.3. The tenderer will be notified of the outcome of the tender submission at the earliest possible time.

9.4. Nothing in the documentation provided by FRC to the tenderer during this procurement or any communication between the tenderer and FRC or FRC's representatives, employees, agents or advisers shall be taken as constituting an offer to contract or a contract. No tender will be deemed to have been formally accepted until the successful tenderer has received a formal contract award letter from FRC.

## **10. Additional Information**

- 10.1. Tenderers must not undertake any publicity activity regarding the procurement within any section of the media.
- 10.2. The FRC reserves the right to take up references. You may be required to provide references in the Tender Response Document / upon request. References must be relevant to the FRC requirement and in the last five years.
- 10.3. Please use the attached Tender Response Document at Appendix 1 for your reply.
- 10.4. The Terms and Conditions will apply to this proposed Agreement are contained in the Tender Response document and should be accepted with no material changes.

### **Appendix 1: Tender Response Document.**