

**ITT PR 2022 112 – Attachment 8**

**Framework Agreement for the Appointment of an Office Holder in Criminal Confiscation and Civil Recovery Cases**

**How to Buy Guide**

Version 0.3 dated 30th May 2024

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# Key Information

| **Category** | **Description** |
| --- | --- |
| **Agreement ID** | PR 2022 112 |
| **Agreement name** | Framework Agreement for the Appointment of an Office Holder in Criminal Confiscation and Civil Recovery Cases |
| **Agreement duration** | Four years |
| **Start date** | [01 December 2024 – *TBC once Framework Agreement is placed*] |
| **End date** | [30th November 2028 – *TBC once Framework Agreement is placed*] |
| **Scope of the agreement** | Covers the appointment of an Office Holder in Criminal Confiscation and Civil Recovery Cases. |
| **Buying options** | Further competition or direct award (in specified circumstances – see below) |
| **Can be used by** | An enforcement authority (as defined in section 316 (1) of the Proceeds of Crime Act 2002) or a prosecuting authority in England, Wales or Northern Ireland, or any government department, executive agency of a government department, Non-departmental Public Body, local authority or NHS Body |
| **Contract notice** | [*to be inserted once Contract Notice is published*] |
| **Contact details** | Receivers.POCA@cps.gov.uk |
| **Glossary** | Please see Clause 1 of the Framework Agreement terms and conditions (Definitions and Interpretation) |

# Agreement Scope and Providers

## 2.1 Types of Receivers and Trustees

This Framework Agreement providers for the following types of Receivers / Trustees:

1. Interim Receivers
2. Management Receivers
3. Receivers in Connection with Prohibition Orders (RICPO)
4. Receivers in Connection with Property Freezing Orders (RICPFO)
5. Receivers in Connection with Interim Freezing Orders (RICIFO)
6. Enforcement Receivers
7. Trustees for Civil Recovery
8. NCA Receivers

## 2.2 Providers

There are [*insert number once Framework Agreement is placed*] Providers on this Framework Agreement as follows:

[*insert list of Providers once Framework Agreement is placed*]

## 2.3 Pricing

You can get pricing information by sending an e-mail to Receivers.POCA@cps.gov.uk. Pricing information will only be shared with those organisations who are eligible to use this Framework Agreement. The prices given do not include VAT.

# Prior to Using the Framework Agreement

Potential Customers shall ensure they:

1. are familiar with the Framework Agreement terms and conditions, the Call-off terms and conditions and the Order Form.
2. comply with all applicable regulations, guidance and internal processes.
3. Compile all the information you need to populate Part 1 of the Order Form.

Disclaimer: this document is for guidance purposes only and does not alter any of the terms and conditions of the Framework Agreement. It also does not include the full details an organisation will need to consider before awarding a contract, rather it replicates certain key provisions from the Framework Agreement (in blue text) with regard to placing a Call-Off Contract. Any questions can be sent to: Receivers.POCA@cps.gov.uk

# Award Procedures

Customers (and Providers) shall comply with Clause 6.1 to 6.10 of the Framework Agreement terms and conditions with regard to Award Procedures. Clauses 6.1 to 6.10 state:

6 Award procedures

Awards under the Framework Agreement

6.1 If a Customer decides to source Services through the Framework Agreement then, subject to clause 6.2, it may:

6.1.1 satisfy its requirements for the Services by awarding a Contract in accordance with the terms laid down in this Framework Agreement without re-opening competition (Direct Award); or

6.1.2 satisfy its requirements for Services by awarding a Contract following a mini-competition conducted in accordance with the requirements of clause 6.6 (Competed Services).

6.2 A Customer may satisfy its requirements for Competed Services in any circumstances but shall only satisfy its requirements for the Services by Direct Award in the following circumstances (Direct Award Criteria):

6.2.1 where there are two defendants or respondents relating to the same property, the Provider to which the Customer may Direct Award is the Provider for the Office Holder who was Appointed (or selected to be put forward for Appointment by the Customer) in respect of the first defendant or respondent;

6.2.2 where there are two defendants or respondents relating to the same case, the Provider to which the Customer may Direct Award is the Provider for the Office Holder who was Appointed (or selected to be put forward for Appointment by the Customer) in respect of the first defendant or respondent;

6.2.3 where there are two related cases as a result of the same criminal or civil recovery investigation, the Provider to which the Customer may Direct Award is the Provider for the Office Holder who was Appointed (or selected to be put forward for Appointment by the Customer) in respect of the first case;

6.2.4 where converting:

(a) a Management Receiver into an Enforcement Receiver;

(b) an Interim Receiver or a Receiver in Connection with an Interim Freezing Order into a Receiver in Connection with a Prohibition Order or a Receiver in Connection with a Property Freezing Order; or

(c) a Receiver in Connection with a Prohibition Order or a Receiver in Connection with a Property Freezing Order into a Trustee for Civil Recovery,

the Provider to which the Customer may Direct Award is the Provider for the Office Holder who was Appointed (or selected to be put forward for Appointment by the Customer) as the Management Receiver, the Interim Receiver, the Receiver in Connection with an Interim Freezing Order, the Receiver in Connection with a Prohibition Order or the Receiver in Connection with a Property Freezing Order (as appropriate);

6.2.5 where a receivership or trusteeship is completed, but at a later stage a further asset in connection with that receivership or trusteeship is discovered, the Provider to which the Customer may Direct Award is the Provider for the Office Holder who was Appointed to the receivership or trusteeship which has been completed; or

6.2.6 in cases of extreme urgency (as determined by the Customer), the Provider to which the Customer may Direct Award is to be determined in accordance with clauses 6.4 and 6.5,

and provided that, save for in cases of extreme urgency pursuant to clause 6.2.6, the Provider shall put forward the same Office Holder that was Appointed (or selected to be put forward for Appointment by the Customer) in respect of the earlier defendant, respondent, case or receivership giving rise to the specific Direct Award Criterion.

Direct Award process (awards without re-opening competition)

6.3 Where a Customer secures Services under the Framework Agreement by Direct Award pursuant to clauses 6.2.1 to 6.2.5 (inclusive):

6.3.1 the Customer shall send an Order Form with Part 1 completed to the Provider which meets the relevant Direct Award Criterion (Relevant Provider);

6.3.2 the Relevant Provider must confirm to the Customer within the time period set out in Part 1 of the Order Form that either:

(a) they have the capability, capacity and expertise to provide the Services within the timescales specified by the Customer and also confirm the price that they are proposing to undertake the Services by completing Part 2 of the Order Form and returning it to the Customer; or

(b) that they are unable to provide the Services;

6.3.3 if the Relevant Provider is not able to provide the Services, and unless clause 6.2.6 applies, the Customer must satisfy its requirements for Services by conducting a mini-competition in accordance with clause 6.6.

Direct Award in extreme urgency (awards without re-opening competition)

6.4 Each Customer shall maintain a list of all Framework Providers in order of rank, highest to lowest, according to the evaluation of their Tenders (Ranking List). The Ranking List shall be used by each Customer to ensure the Framework Providers are selected in turn for Nominations where that Customer is seeking to satisfy its requirements for Services in a case of extreme urgency pursuant to clause 6.2.6.

6.5 Where a Customer secures Services under this Framework Agreement by Direct Award pursuant to clause 6.2.6:

6.5.1 the Customer shall send an Order Form with Part 1 completed:

(a) when it is the first time they are submitting an Order Form pursuant to this clause 6.5, to the Framework Provider who is ranked highest on the Ranking List;

(b) when it is the second or any subsequent time thereafter they are submitting an Order Form pursuant to this clause 6.5, to the Framework Provider ranked next on the Ranking List immediately following the Framework Provider to which the Customer previously submitted an Order Form pursuant to this clause 6.5 (provided that where the previous Framework Provider is the lowest ranked on the Ranking List, the Framework Provider ranked next shall be the highest ranked Framework Provider on the Ranking List),

and the Framework Provider receiving the Order Form shall be the Preferred Framework Provider;

6.5.2 the Preferred Framework Provider must confirm to the Customer within the time period set out in Part 1 of the Order Form that either:

(a) they have the capability, capacity and expertise to provide the Services within the timescales specified by the Customer and the price that they are proposing to undertake the Services by completing Part 2 of the Order Form and returning it to the Customer; or

(b) they are unable to provide the Services;

6.5.3 if the Preferred Framework Provider is not able to provide the Services, the Customer may send an Order Form with Part 1 completed to the Framework Provider who is next on the Ranking List immediately following the Preferred Framework Provider;

6.5.4 the Customer may continue to submit Order Forms with Part 1 completed to Framework Providers in turn following the order of rank of the Ranking List until the Order Form is returned to them with Part 2 completed or there are no further Framework Providers qualified to fulfil the Customer’s requirements.

Competed Services (awards following mini-competitions)

6.6 Where a Customer is securing Competed Services under the Framework Agreement:

6.6.1 the Customer may:

(a) complete Part 1 of the Order Form setting out their requirements for the Competed Services;

(b) supplement and refine the Call-off Terms and Conditions only to the extent permitted by and in accordance with the requirements of the Regulations and Guidance (as such supplements and refinements may be set out in the Order Form);

(c) invite tenders by conducting a mini-competition for its Competed Services requirements in accordance with the Regulations and Guidance and in particular:

(i) submit an Invitation to all Framework Providers setting out their requirements for Competed Services and inviting all Framework Providers within a specified time limit to submit a Supplemental Tender;

(ii) require that Providers submit any clarifications they may have in respect of the mini-competition as soon as reasonably practicable but in any event within 3 Working Days of the Provider’s receipt of the Invitation. Should any clarifications be received by the Customer the Customer’s responses to such clarifications (along with the clarification question) shall be shared with all Providers, subject to the Customer withholding any information which is commercially sensitive;

(iii) set a time limit for the receipt by it of the Supplemental Tenders which takes into account of the period within which any clarifications should be raised by Providers and other factors such as the complexity of the subject matter of the Contract, the time needed to submit tenders and the timeframe within which the Customer needs to Appoint the Office Holder; and

(iv) keep each Supplemental Tender confidential until the expiry of the time limit for the receipt by it of the Supplemental Tenders;

(d) apply the Competed Services Award Criteria to any compliant Supplemental Tenders submitted through the mini-competition; and

(e) subject to clause 6.10, submit a Letter of Nomination to the successful Framework Provider to accompany the Order Form with Part 3 executed by the Customer;

6.7 The Provider agrees that all Supplemental Tenders submitted by the Provider in relation to a mini-competition held pursuant to this clause 6 shall remain valid for sixty calendar days (or such other period specified in the Invitation issued by the relevant Customer in accordance with this clause 6).

6.8 When submitting clarifications pursuant to 6.6.1(c)(ii), the Provider must identify any information they consider is commercially sensitive. The Customer shall be the sole arbiter of deciding what information is commercially sensitive. If, in the opinion of the Customer, the information is not commercially sensitive, the Customer shall inform the Provider who will have the opportunity to withdraw the clarification. If the clarification is not withdrawn, the clarification question and Customer response shall be shared with all Framework Providers. Where a Provider has any questions or requires clarification with regard to the detail included in Part 1 of the Order Form, including but not limited to pricing and assumptions, the clarification process shall be their opportunity to seek such clarification.

6.9 The Provider shall not supplement or modify the Call-off Terms and Conditions and shall comply with all requirements of the tender procedure as specified in this Framework Agreement and Order Form. Should the Provider seek to supplement or modify the Call-off Terms and Conditions or fail to comply with any requirements of the tender procedure the Customer may disqualify them from the relevant award procedure.

6.10 Notwithstanding the fact that the Customer has followed the procedure set out above for Competed Services, the Customer may cancel, postpone, delay or end the procedure without issuing a Letter of Nomination for Services or awarding a Contract. Nothing in this Framework Agreement shall oblige any Customer to issue a Letter of Nomination or Contract for Services.

# Competed Services Award Criteria

Clause 6.6.1 (d) of the Framework Agreement terms and conditions refers to Competed Services Award Criteria. These are included at Schedule 2 of the Framework Agreement terms and conditions and are replicated below:

Schedule 2

1. This Schedule 2 applies to all awards of Contracts for Competed Services.

2. Subject to paragraph 3, a Customer may choose to evaluate a mini-competition on the basis of:

2.1 lowest price; or

2.2 weighted evaluation.

3. A Customer shall take into account the following factors when deciding whether to evaluate a mini-competition on the basis of:

3.1 l**owest price**, the Customer perceives that:

3.1.1 the technical elements of the requirement are adequately provided for with reference to the Framework Specification and the Provider’s Tender and the Customer does not need to take into account any further technical information in its assessment of the mini-competition;

3.1.2 the requirement is perceived to be low to medium risk; and

3.1.3 the requirement is not novel and/or contentious;

3.2 **weighted evaluation**, the Customer perceives that:

3.2.1 the technical elements of the requirement are not adequately provided for with reference to the Framework Specification and the Provider’s Tender and the Customer needs to take into account further technical information in its assessment of the mini-competition;

3.2.2 the requirement is perceived to be medium to high risk; or

3.2.3 the requirement is novel and/or contentious.

4. Where a Customer is evaluating a mini-competition on the basis of lowest price, the evaluation will be based on 100% of the Contract Price (of compliant tenders) proposed by the Provider in Part 2 of the Order Form.

5. Where a Customer is evaluating a mini-competition on the basis of weighted evaluation, subject to paragraph 7, the Customer shall have regard to the criteria which was applied for the award of the Framework Agreement. The following criteria were applied for the award of the Framework Agreement:

5.1 Technical (60%) – broken down as follows:

5.1.1 Investigation of Assets (i.e., Interim Receivers) – 5%;

5.1.2 Management and Realisation of Assets (i.e., the other types of receivers/trustees) – 20%;

5.1.3 Digital Assets – 2.5%;

5.1.4 Approach to UK-Based Assets – 12.5%;

5.1.5 Approach to Northern Ireland and Overseas-Based Assets – 2.5%;

5.1.6 Breadth of Assets and Access to Appropriate Experience – 7.5%;

5.1.7 Cost Control, Management, VFM and Reporting – 10%;

5.2 Price (30%); and

5.3 Social Value (10%).

6. Customers shall ensure that the weighted evaluation criteria are within scope of the criteria which was applied for the award of the Framework Agreement, but do not necessarily need to mirror them. Criteria which are not relevant for a particular mini-competition do not need to be included. In determining what percentages to allocate to the weighted evaluation criteria, Customers shall have regard to the criteria applied for award of the Framework Agreement, but in any event shall work within the following percentages:

|  |  |
| --- | --- |
| **Criterion** | **Percentage Weightings and allowable variance to be set by the Customer conducting the mini-competition** |
| Technical | 50%-90% |
| Price | 10%-50% |
| Social Value | 0% - 10% |

7. A Customer may choose to include 10% social value in the above weighted evaluation award criteria. Should a Customer choose to allocate 10% of the weighted evaluation award criteria to social value that Customer shall have regard to the contents of Procurement Policy Note (PPN) 06/20.

# Pricing

The following provisions apply in relation to pricing (Clause 9 of the Framework Agreement terms and conditions):

9.1 The Contract Price shall be either:

9.1.1 a Capped Price;

9.1.2 an Estimated Price; or

9.1.3 Contingency Fee Pricing,

as such pricing type shall be selected by the Customer and specified in Part 1 of the Order Form as applying to a Contract, or part of a Contract, and may be a combination of the above with different pricing types applying to different assets and/or aspects of the Services to be delivered under the Contract.

9.2 Where the Provider is proposing a Capped Price or Estimated Price the Contract Price shall be based on the prices listed in the Pricing Matrices. The prices listed in the Pricing Matrices shall not be exceeded by the Provider when seeking awards of Contracts pursuant to this Framework Agreement but may be lowered at the Provider’s discretion for any Contract.

9.3 Subject to any revisions made pursuant to clause 10 (Variation to prices), the prices listed in the Pricing Matrices shall be fixed for the Term.

9.4 Where the Provider is proposing a Contract Price for Services being secured by way of Direct Award pursuant to clause 6.3 (Direct Award), the Contract Price shall be based on the same rates as the Appointment giving rise to the relevant Direct Award Criterion.

9.5 The Provider shall only charge hourly rates for work which is commensurate to the level of work being undertaken. For the avoidance of doubt, and by way of example, work which can be carried out by an Associate shall only be charged at the applicable Associate rate regardless of the level of seniority of the individual actually undertaking that work.

9.6 Where the Provider charges for disbursements including all Subcontractors’ fees, such charges shall be included within the Contract Price. The Provider shall not impose any mark-up on disbursements or Subcontractors’ costs.

9.7 The Provider shall set out their proposed Contract Price in Part 2 of the Order Form and must:

9.7.1 price each asset within the Receivership Estate and/or aspect of the Services to be provided according to the pricing type (or types) selected by the Customer pursuant to clause 9.1;

9.7.2 base each price on the Assumptions;

9.7.3 include a price breakdown for each asset within the Receivership Estate and/or aspect of the Services to be provided which shows the relevant hourly rates per grade of Staff as stated in the Pricing Matrices, plus a breakdown of Subcontractor and disbursement costs;

9.7.4 include a total price for each asset within the Receivership Estate or aspect of Services to be provided. The total price for each asset shall be for the recovery and/or management of the relevant asset inclusive of disbursements;

9.7.5 not include any prices which are not linked to assets within the Receivership Estate or aspects of Services to be provided as specified by the Customer in Part 1 of the Order Form,

and the Contract Price shall be the total of all prices stated for the assets within the Receivership Estate and any itemised aspects of the Services to be provided (inclusive of disbursements).

9.8 Where the Provider:

9.8.1 fails to set out their proposed Contract Price in accordance with clause 9.7 above; and/or

9.8.2 seeks to introduce new assumptions, exclusions or dependencies (unless they are agreed with the Customer through the clarification process),

then the Customer may disqualify the Provider from the relevant award process.

# Appointment

Once the relevant award process has been followed, Customers (and Providers) shall comply with Clauses 6.12 to 6.17 of the Framework Agreement terms and conditions with regard to appointment. Clauses 6.12 to 6.17 state:

Form of Appointment

6.12 Subject to clause 6.1 to clause 6.11, each Customer may commence the Nomination process by serving a Letter of Nomination in writing in substantially the form set out in Part 1 of Schedule 13 (Letter of Nomination and Letter of Acceptance of Appointment).

Accepting and declining Appointments

6.13 Following receipt of a Letter of Nomination, the Provider shall within the time period specified in the Letter of Nomination acknowledge receipt of the Letter of Nomination and either:

6.13.1 notify the Customer in writing that it declines to accept the Letter of Nomination including detailed reasons as to why it is unable to accept the Letter of Nomination; or

6.13.2 notify the relevant Customer of its unqualified acceptance of the Letter of Nomination by:

(a) procuring that the Office Holder signs the Letter of Acceptance of Appointment; and

(b) signing Part 3 of the completed Order Form which the Provider shall return to the Customer with the signed Letter of Acceptance of Appointment;

6.14 If the Provider:

6.14.1 notifies the Customer that it declines to accept the Letter of Nomination;

6.14.2 does not provide its unqualified acceptance of the Letter of Nomination; or

6.14.3 the time limit for acknowledgement referred to in clause 6.13 has expired;

then the Letter of Nomination shall lapse and the relevant Customer may then send that Letter of Nomination to another Framework Provider as follows:

6.14.4 in the case of a Direct Award in cases of extreme urgency, in accordance with the Ranking List procedure set out in clause 6.5; or

6.14.5 in the case of an award for Competed Services, the Framework Provider who was ranked next highest in the relevant mini-competition.

6.15 The Parties acknowledge and agree that the issuing of an Order Form alone does not constitute an offer from the Customer which is capable of acceptance by the Provider. Where a Customer issues a Letter of Nomination accompanied by a completed Order Form signed by the Customer in Part 3 this shall constitute an offer to the Provider. Accordingly, the Provider shall signal its unqualified acceptance of such an offer and, subject to clause 6.16 and clause 6.17, the conditional formation of a Contract, by counter-signing Part 3 of the Order Form and returning it to the Customer with the Letter of Acceptance of Appointment signed by the Office Holder.

6.16 The Contract shall not become legally binding until the Office Holder takes office as per the relevant Court Order. If the Office Holder never takes office then the Parties agree that no Contract shall be formed.

6.17 The Provider acknowledges and agrees that all Contracts are subject to the approval of the Court and that:

6.17.1 the Court’s approval of a Contract may be subject to the Court:

(a) allowing more time for a defendant or respondent to voluntarily pay the Court Order (in which case approval from the Court may be delayed);

(b) appointing the Office Holder but on the basis that the date at which they take office is deferred to a specified date (during such time the defendant may voluntarily pay the Court Order in which case the Office Holder shall not take office and the Contract shall not become legally binding; and

6.17.2 the Court may withhold or refuse to provide approval of the Contract,

in which circumstances the Customer shall not be liable for any costs or expenses, nor shall it indemnify the Provider for any costs or expenses, which may have been incurred by the Provider in relation to the relevant Contract.

# Further Documents

|  |  |
| --- | --- |
| Order Form |  |
| Letter of Nomination and Letter of Acceptance of Appointment |  |

