THE LEARNING AND SKILLS COUNCIL

CONSULTANCY SERVICES FRAMEWORK
FOR MAJOR BUILDING PROJECTS

Guidelines and Working Practices
for Consultants to the Framework

September 2008
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Introduction

This document explains the purpose, benefit and process to colleges and FE providers of using the LSC Consultancy Framework to deliver construction projects and programmes. It explains the objectives of the framework, how the framework is governed, and how the framework is operated.

The Learning and Skills Council (LSC) has a large, ongoing capital expenditure programme covering over 400 further education providers in England. The aim of the programme is to enhance, renew or refurbish the whole FE estate by 2014 to produce world-class buildings for world-class teaching and learning. Between 2008-09 and 2010-11 the LSC expects to allocate over £1.5 billion in capital grants towards the costs of colleges’ and other FE providers capital projects.

In recent years FE capital projects have become larger and increasingly complex in nature and the successful delivery of the capital programme is underpinned by the need for providers to be advised by proficient and effective teams of professional consultants.

Historically the tendering and procurement process has been time and resource intensive with colleges and FE providers being required to advertise qualifying consultancy appointments in the Official Journal of the European Union (OJEU) before consultants are appointed. This requirement has resulted in a time consuming process and it can take up to 4 months to appoint consultants.

To facilitate the more effective delivery of capital projects the LSC has established a panel of cost, design and project management consultants (“the framework consultants”) for colleges to employ when undertaking capital projects.

The framework consultants were procured through an OJEU compliant tender process; OJEU reference 2007/S 70-111058. Further OJEU tendering processes are therefore not required before colleges can engage these framework consultants. Professional consultants for projects may therefore be appointed on a much shorter, simpler ‘best fit’ basis saving considerable time, procurement resources and costs to all parties.

Assisted by Improvement and Efficiency South East (IESE) formerly known as SECE, the LSC has undertaken a robust and rigorous assessment procedure resulting in the selection of the framework consultants. All selected consultants have demonstrated, amongst other things:

- competence in the relevant disciplines;
- ability to resource adequate consultancy services to meet college and FE provider requirements;
- the ability and willingness to work collaboratively with the college or FE provider as client, fellow consultants and contractors as part of the project team; and
- a willingness to share knowledge and best practice to help develop and improve the operation of the frameworks.
The framework consultants have agreed to enter into framework agreements ("the frameworks"). Through these frameworks they agree to provide colleges and other FE providers with consultancy services in accordance with the framework specifications and guidelines and within an agreed fee range.

The framework is split into 3 geographic regions North, Central and South. For each region, the framework contains a list of project management, design and cost management consultants respectively. Colleges will be able to appoint consultants following a selection procedure which should be more time and resource efficient.

For those colleges undertaking capital projects estimated to cost £5 million or more and requiring capital grant support (including fee support) from the LSC, the use of the framework will be mandatory. The LSC anticipates that due to the benefits associated with the framework, many colleges undertaking capital projects of less than £5 million or not requiring LSC grant support will choose to adopt the framework voluntarily.

The framework is to run initially for four years commencing in April 2008, with an option to continue operation for a further two years.

The Guidelines and Working Practices were updated during September 2008 and will be periodically updated and refined as the LSC continues to operate and develop the framework.
Section 1 – About the Frameworks
What is the LSC Consultancy Framework?

The Framework Agreements comprise a commitment to the establishment and maintenance of a long term relationship between the LSC and a number of project management, design and cost management consultants. By entering into a framework agreement with the LSC, the consultants, together with their supply chain partners agree to provide colleges and FE providers with consultancy advice and services in accordance with defined working practices and guidelines and within an agreed fee range.

The use of the frameworks is mandatory for all FE colleges, specialist colleges and other qualifying external institutions, applying for capital grant support, where projects are likely to cost £5 million or more.

It is a condition of LSC grant support (including fee support) that colleges will procure consultancy advice for such projects in the framework disciplines in accordance with the framework guidelines (see section 3).

The frameworks are available for use by other FE providers, but utilisation of the frameworks are only mandatory where providers are already in receipt of or propose to apply for LSC capital grant funding.

As with existing practice individual colleges and FE providers are responsible for obtaining the necessary legal and procurement advice prior to procuring consultancy advice from the framework.

Consultancy contracts will be between the individual colleges or other FE providers as employer and the selected consultant.

Diagram 1 - The Relationship between the framework agreements and the underlying consultancy contracts
Objectives of the LSC Consultancy Framework

The objectives of the LSC consultancy frameworks are to:

- secure a consistently high standard of consultancy advice for colleges within the project management, design and cost management disciplines through the use of proven consultants chosen from a pre-tendered list who collectively have the skills and experience to meet any of the challenges faced across a wide range of further education projects;
- provide predictability of cost outcome and reduction in risk within capital projects;
- streamline processes avoiding duplication and waste and providing value for money; and
- reduce time spent by colleges and FE providers on pre-construction activities thereby helping colleges and FE providers to accelerate the delivery of capital projects.

The goals of the framework are to:

- add value to the whole life of a project by engaging all parties in joint ownership and collaboration;
- gain through aggregation, leverage and economy of scale, avoiding bespoke procurement thus significantly reducing hidden cost; and
- improve processes for design development, procurement and construction through the sharing of good practice and technical and market knowledge.

Benefits of the LSC Consultancy Framework

In the framework, all parties realise gains. These gains include reductions in cost and time and improved quality through:

- improved predictability of outcome and risk reduction within projects;
- standardised and streamlined processes with continuous feedback and performance improvement;
- efficient resource deployment;
- shared skills and knowledge;
- early supplier involvement and reduced aborted work;
- reduced burden, cost and time of OJEU compliant procurement; and
- meaningful and consistent engagement with the whole supply chain.

The framework reduces demands on colleges and other FE providers and brings these benefits within their reach.
Range of services to be provided by the LSC Consultancy Framework

The framework covers 3 separate disciplines within the capital project procurement process:

- Project Management;
- Cost Management;
- Design Services.

The exact scope of consultancy services required by a college or FE provider will be determined by the specific project requirements.

Scope of the LSC Consultancy Framework Arrangements

The framework consultancy arrangements cover the whole of England and are divided into three regions:

- Northern - including the North West, North East, and Yorkshire and Humberside
- Central - including East Midlands, West Midlands, and the Eastern Region
- Southern - including the South East, South West and London

Appendix 1 contains a list of the framework consultants eligible for selection by region and by discipline. Colleges will be expected to appoint consultants from within their region, unless otherwise agreed with the LSC.
SECTION 2 – ROLES, GOVERNANCE AND TERMS OF REFERENCE
The LSC’s Role

The LSC is responsible for the governance and leadership of the framework arrangements. IESE has provided resource to the LSC to fulfil the framework management role. It is the framework management role to manage the expressions of interest phase of appointments and to support providers where requested; to maintain records of appointments made through the framework and report on issues arising from the operation of the Frameworks in practice.

Through simple quality assurance processes, the LSC will ensure colleges are complying with the guidelines and working practices and will encourage framework consultants to work collaboratively with colleges and FE providers, the LSC and each other to develop and improve the Framework.

LSC’s role is to:

- provide leadership and guidance;
- champion the collaboration ethos over traditional professional responsibilities;
- champion culture change, new ways of working, new behavioural habits;
- champion openness;
- recognise challenges and openly address them with all participants;
- ensure continued development of the rules of governance and working practices; and
- facilitate data capture, learning and performance improvement

Governance

The LSC is responsible for governance, overall management and leadership of the framework.

Governance of the framework takes place through the LSC Finance and Funding Board, the steering group, the framework strategic forum, and through the RIBA learning and skills forum framework improvement group.

The steering group comprises a representative from the LSC Infrastructure and Property Services team, the Framework Manager, Regional Property Advisor representation, a member of the LSC Procurement Department and a member of the LSC Legal Department. The group meets monthly and any changes to the constitution will require prior approval through the Finance and Funding Board.

The strategic forum includes Framework Managers from the consultancy firms appointed to the framework. This provides the consultancy firms with the opportunity to influence the framework arrangements and to collaborate with other framework consultancies. The group meets quarterly within each region.

The RIBA learning and skills forum, framework improvement group includes framework managers from the consultancies. The group is organised by region and by discipline and provides consultants with the opportunity to respond to issues of importance to the framework.
The governance of individual projects is the responsibility of the college concerned as the contracting authority.

The inter-relationships are shown in the diagram below:

**Diagram 2 – The Inter-Relationships in the Governance of the Frameworks**

**Support**

The LSC ensures that support is available to providers wanting to check the results of submissions made by consultants in mini tenders against the fees on which the consultants were selected for inclusion in the Framework.

The framework manager records and collates all appointments in order to monitor and address any operational issues arising.

**Terms of Reference**

The LSC’s terms of reference include:

- provision of leadership and decision making;
- stewardship of the framework process, ensuring transparency and probity;
- approval of refinements to the rules of governance;
- empowering the steering group and strategic forum;
- responding to input from the steering group and strategic forum; and,
• arranging meetings on a quarterly basis.

The steering group’s terms of reference are to:

• scrutinise and support in further developing governance arrangements;
• review proposals for framework development;
• make recommendations to the LSC; and
• promote the benefits of active participation in the framework across the three regions and the three disciplines.

The strategic forum’s terms of reference are to:

• review framework arrangements and make recommendations to the LSC;
• identify areas for improvement and make recommendations;
• influence design practices;
• lead and contribute to work groups to drive best practice; and
• lead on procurement policy.

The RIBA learning and skills forum framework improvement group’s terms of reference are to:

• Provide formal responses to the strategic forum and the RIBA learning and skills group on issues of importance to the framework;

• Provide a forum for the discussion of issues of interest to the RIBA learning and skills forum, which are relevant to the framework agreements other than procedural, administrative, or performance review related activities;

• To seek continual improvement of the LSC framework agreements.
SECTION 3 – WORKING PRACTICES
How and when is the Framework to be used?

The Framework should be used if a building project under consideration is likely to cost more than £5 million in total, and require LSC grant support.

Following the development and agreement of a broad property strategy colleges will be required to procure services through the framework. A college will wish to procure any of the following:

- A strategic property advisor to help to organise the appointment of other consultants and to develop feasibility studies;
- Consultancy services to undertake a feasibility study;
- Consultancy services to develop a project up until the end of application in principle/ the beginning of detailed application;
- Consultancy services up to project completion.

Legal services, site searches, valuation, property marketing and development advice are not included in the Frameworks so it will be necessary for colleges to procure whatever specialist advice is required, independently. The Strategic Property Advisor or in-house expert can assist in developing the brief and obtaining competitive quotations.

It is recommended that the Provider defines a scope of services for land surveying, building surveying and ICT and invites a bid from the Framework Design Services Consultant.

It is recommended that the Project Manager is the first appointment. The Project Manager should then assist the Provider in making the appointment of Design, and Cost Management Consultants

The three disciplines can be separate appointments run concurrently if the Provider has sufficient in-house expertise to manage the process. The roles and responsibilities of the appointed consultants should be made clear to the whole project team.

These roles and responsibilities are very important as they impact on the legal duties of care and the requirement for collateral warranties etc.

The option for novation of design consultants to a contractor, and the retention of the advice of others may need to be incorporated into the various consultant appointments.

Led by the Project Manager, the whole project team needs to give careful consideration to the advantages of various construction procurement options and the effect on the time-quality-cost balance.

Regular discussions should also be held with the LSC’s Regional Property Advisor to agree the optimum procurement route for the project and deliver the required project outcome.
Consultant Selection – (4 – 6 Weeks) (refer to the flow chart in appendix 3)

Expression of Interest

Through the framework manager, an expression of interest request will be issued to all consultancies on the relevant framework list. This self-scoring exercise enables the Framework Manager and the Provider to compile a short list for mini-competition.

This process should take no more than a week and can be done electronically.

Mini-competition

At this stage at least three consultancies from whom a quality and fee bid will be invited.

The bid should include:

- Proposed fee for the services required, based upon the tender fee rates. Under revised proposals, the core service fee will be provided by the Framework Manager.
- Confirmation that the resources are available to devote to the project.
- Details of the proposed team, their roles, responsibilities and deliverables.
- Response to other local issue questions (stakeholder communication etc).

• A college may include specific consultancies in the mini competition that are on the framework and within their region, which are not included in the top three shortlisted firms. The college must however include all other consultancies who achieved equal or higher marks than the specific consultancy at expression of interest stage.

• Consultants must be allowed adequate timescales in which to respond with a good quality bid. As a minimum consultants must be allowed 2 weeks to respond to the invitation to tender. If the project is more complex, or phased, a timescale of 3 – 4 weeks is recommended. If a consultant believes that the timescale which they have been allowed is insufficient they should discuss the matter with the college in the first instance.

• Following the assessment process colleges will be required to invite the consultants to take part in an interview. The college will complete a tender report, including all score sheets which have been used in the process, for the LSC Records, and will appoint the consultant. Feedback must be given to all unsuccessful firms.

• The LSC will monitor the volume of work being placed with Framework Consultants and act as an early warning on whether any of them might be at risk of becoming over-stretched.

Each bid and the interview will have to be scored and the score sheets retained as a formal record. The unsuccessful consultancies (and the LSC and its nominees) will
require feedback as to why they were not selected. Feedback is an important element of this process. Consultants should be given constructive feedback as to why they were not selected, in relation to the successful consultants. This should not be based on the fee bid. Your regional property advisor can offer guidance on providing effective feedback to consultants if required.

Appoint

Consultant appointments will be made using the GC Works 5 Form of consultancy appointment as a template, (see appendix 5) in accordance with the information issued in the ITT. The institution’s appointed solicitor will draw up the appointment document including any collateral warranties and performance bonds stipulated as being required in the mini-tender brief.

There should be no material adjustments to the GC Works 5 standard form of contract (as amended) when used for the appointment of consultants from the framework.

Gateway Reviews

Appendix 4 provides guidance and an outline pro forma which should be used when undertaking gateway reviews. Gateway reviews provide quality assurance checks at key stages ensuring projects are fit to proceed prior to commencing to the next stage. It ensures that all parties sign up to the proposals and provide feedback on the framework arrangements. The mandatory gateway stages are:

- At the end of feasibility
- Submission of AiP
- Submission of AiD
- Project completion – On projects with a construction period of more than 2 years, there should be a further review at the mid point of construction

Each of these stages should correspond with points at which break clauses occur enabling a college to appoint a new consultant in the event of poor performance. Depending on project circumstances, interim gateways may be appropriate. These will be particularly valuable where performance remediation is required. When done in the spirit of performance improvement, it will engender the collaborative spirit, deter a blame culture and provide ‘early warning’ of performance shortfalls.

Additional criteria can be included within the gateway reviews depending on the requirements of individual projects and individual project teams.

The outcome of the review should be fed back, and copies given to the LSC, and the Framework Manager to assist with overall monitoring of the Framework.

Performance Reviews

The teams are expected to conduct 360 degree performance reviews of the whole team and the client at gateway review stages as outlined above.
Frequently Asked Questions

Q1 My practice was commissioned by a college before the frameworks were launched. Will the college be required to exercise a break clause and re-appoint through the framework?

If you are a consultancy that is on the framework, then a college can continue to work with you, providing that the correct gateway reviews are adhered to and the framework guidelines for performance are followed.

If you are not on the framework then colleges may continue to work with you, until such time as they choose to exercise a break clause, or if they would otherwise be required to OJEU the consultancy service. At this point a college will be required to engage with the LSC framework.

Q2 Can I use sub-consultants who were not part of my original tender submission?

In some limited situations it may be necessary for consultants to appoint sub-consultants which were not part of the original tender submission. In these situations consultants must contact the framework manager to obtain consent to proceed with any appointments which vary from the original tender submission.

Q3 Can we take on projects from regions other than the one we are appointed to?

No. Consultants must only be commissioned from within their own region. The only exception to this is where there are issues concerning capacity in a region, and then express consent must be obtained from the LSC before such an appointment can take place.

Q4 Can colleges procure services from outside of the framework?

If a college is undertaking a project, estimated to cost £5 million or more then they must use the framework as a condition of grant funding. If their project is likely to cost less than £5 million they will be encouraged to use the framework, although it will not be mandatory. Colleges will still be required to follow the alternative procurement process to procure services not available through the framework e.g. legal services.

Q5 How can the LSC be sure that just one or two of the firms on the framework do not get all of the work?

The LSC has developed a transparent and fair selection process for colleges to adopt when recruiting consultants from the framework. This will give each practice an equal opportunity to be appointed to any given project, based on best fit with the college and the project.

The framework manager monitors the appointments made and addresses any area of concern.
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Appendix 1 – List of consultants appointed to the Framework
Appendix 2 – Expression of Interest Evaluation Form
Appendix 3 – LSC Consultant Selection Procedure
Appendix 4 – Gateway Review template forms
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Appendix 6 – Framework management contact details
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Appendix 8 – Project Briefing Template
Appendix 1

Learning and Skills Council Framework Agreements.

List of Lead Consultants – Contact Information

<table>
<thead>
<tr>
<th>Design</th>
<th>Contact Name</th>
<th>Contact E-mail</th>
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<tbody>
<tr>
<td>North</td>
<td>Atkins Ltd</td>
<td>Mr. John Mercer</td>
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<td></td>
<td>Bond Bryan LLP</td>
<td>Ms. Jodie Machin</td>
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<td></td>
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<td>Mr. John Robinson</td>
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<td></td>
<td>GSS Architecture</td>
<td>Mr. John Davis</td>
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<tr>
<td></td>
<td>Pick Everard</td>
<td>Mr. Chris Trivett</td>
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<tr>
<td></td>
<td>Ryder Architecture</td>
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<td></td>
<td>Taylor Young</td>
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<td>Walker Simpson Architects</td>
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<tr>
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<td>AD Architects</td>
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<td></td>
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</table>
Appendix 3 – LSC Consultant Selection Procedure

Input Process Output

Is the project of a value of £5m +?

YES

College Preference

Consultants: Capacity Preference Experience

LSC KPI/Cost

Expression of interest to all consultants

Mini Competition (Including Interview)

Consultants provide written Responses to additional Information. Transparent procedure. Public Contracts Regulations 2006. (see page 12 of guidance)

Appoint Consultants

Report on Selection Submitted with Application for fee/grant support

Inform Unsuccessful Consultants

Appoint Successful Consultants

College Preference of Procurement method

NO
Appendix 6 – Framework Manager contact details

If a college is in need of assistance with any aspect of procuring services from the LSC frameworks, please contact:

Mark Jaloszynski
01962 846335
Hampshire County Council