|  |  |  |
| --- | --- | --- |
|  | COMUNIDADE ECONOMICA DOS ESTADOS DA FRICA OCIDENTAL |  |
| ECONOMIC COMMUNITY OFWEST AFRICAN STATES |  | ECONOMIC COMMUNITY OF WEST AFRICAN STATES |

**Explanatory note on framework agreements (Article 98 of the ECOWAS Procurement Code)**

**Introduction**

By definition, these are contracts concluded between one or more contracting authorities (...) and one or more economic operators (...), intended to establish the terms governing the contracts to be awarded during a given period, in particular in this which concerns the prices and, where applicable, the quantities envisaged. These are unconventional procurement techniques that contracting authorities use to pool purchases and meet recurring needs. They can be classified into two main categories.

* Those which do not fix all the contractual stipulations give rise to the conclusion of [subsequent contracts](http://www.marche-public.fr/Marches-publics/Definitions/Entrees/Marches-subsequents-accords-cadres.htm) . They are subject to re-competition;

- others which set out all the contractual stipulations, they are executed as purchase orders are issued and do not require a re-competition.

Given their atypical nature, the conduct and administration of framework agreements requires a substantial legal framework in order to limit possible abuses and irregularities. This guidance note fits into this framework.

1. Framework agreement procedures can be described as a two-stage procurement technique taking place over a certain period and involving:

a) solicitation of tenders under predetermined conditions;

b) the evaluation of the qualifications of the candidates as well as the examination and most often the evaluation of their submissions with regard to the conditions of the agreement;

c) the conclusion of a framework agreement between the selected candidate(s) and the contracting authority on the basis of the submissions; the framework agreement sets out the conditions for future purchases and is concluded for a fixed period at XXX constitute the “first stage” of the procurement);

d) the subsequent or periodic award, with or without re-competition, of contracts to these suppliers or contractors parties to the framework agreement under the conditions thereof, when particular needs arise (This is the “second stage ” of the procurement).

2. Framework agreement procedures are often used for the purchase of an item that the contracting authority needs for a certain period or will need in the future, when the exact quantity, precise nature or timing is unknown. of these needs. Essentially, the framework agreement establishes the conditions under which the purchases will be made (or the main conditions and the mechanism to be used to establish the other conditions or refine those initially established: the latter may relate in particular to the quantities to be delivered on a specific date, the time of deliveries, the total market quantity and the price).

The framework agreement procedures are suitable, for example, for purchases of basic products, office supplies, spare parts, IT supplies or IT maintenance services, normally regular or recurring, travel agencies, moving, freight, mail transport, in varying quantities, in a market that can be very competitive. They may also be suitable for purchases from multiple sources and for the purchase of items that may be needed urgently, such as medicines (a major objective then being to avoid excessive pricing and poor quality that can result of solicitation of a single source in case of emergency). These types of markets may require security of supply, as may specialist items requiring a special production line, for which framework agreements are also appropriate.

1. **Advantages and risks linked to framework agreement procedures**

3. The main potential benefits of framework agreement procedures as a procurement practice can be summarized as follows:

a) Administrative efficiency: if the framework agreement is used for recurring contracts, it makes it possible to efficiently consolidate a series of procurement procedures. Many tasks normally performed for each of these procedures are done only once; for example drafting conditions, ensuring advertising, assessing the qualification of suppliers or contractors, examining tenders and, in some forms of framework agreements, evaluating them. Purchases can thus be made at a lower cost and with shorter delivery times than if each purchase were the subject of a separate procedure;

(b) Reducing the need for emergency procedures: Reducing the duration of procurement procedures once the initial tasks described in (a) above have been completed may make emergency procedures less necessary. emergency, which are often carried out without transparency and without effective competition;

c) Better results for contracts of lower value, the award of which is considered to risk giving rise to abuse or not resulting in good value for money because it is often carried out through procedures that are not very transparent and do not competitive;

d) Increased participation of small and medium-sized enterprises: placing smaller orders under the framework agreement may allow smaller suppliers or contractors to participate;

e) Security of supply: the supplier or contractor is required to ensure future supplies;

f) Additional savings: Centralized purchasing (a central department of a contracting authority or a specialized independent entity can purchase for several services, or an entity or consortium can purchase on behalf of several entities) provides cost savings. ladder; thus, allows for better management of the supply chain: purchasing a large quantity at once can reduce the cost (characteristic of some centralized procurement), notably storage costs;

i) Efficiency of the process: centralized purchasing can also promote improvement in the quality of offers and other documents and uniformity and standardization within public institutions, and a better understanding of the needs of contracting authorities by suppliers or contractors can improve the quality of bids.

4. It is clear from the list above that many benefits arise from applying framework agreement procedures to recurring purchases. This is their most common use and the one to which they are best suited, but it is not the only one, as will be explained below. The framework agreement procedure lends itself to all procurements, whether for goods, works, services including intellectual services or a combination of these elements.

5. It should be noted that the use of framework agreement procedures may have negative effects on competition, some of which are inherent in the technique itself and others resulting from inappropriate use. Closed framework agreements (those with a limited number of participants) effectively have the effect of limiting competition in the relevant market during their period of effect. Furthermore, the parties to a closed master agreement will know each other, which increases the risk of collusion in the second stage. These risks will vary from market to market, with some markets being inherently more competitive than others.

6. Control over the use of framework agreement procedures must therefore be designed to facilitate the appropriate and beneficial use of this technique during recurring purchases or in other circumstances such as anticipating an urgent need or ensuring the security of supply, to discourage inappropriate use and to mitigate or reduce the risks they may pose for competition. The rules therefore refer to a control of the use of framework agreement procedures, in the form of the conditions of use and the mandatory procedures set out in the Public Procurement Code and this Instruction requiring the use of appeal to competition for the award of the framework agreement unless another procurement method is justified.

1. **Types of framework agreements:**

7. A “closed” framework agreement procedure without competition in the second stage, in which the contracting authority concludes with one or more suppliers or contractors a framework agreement which sets out all the conditions of the contract. The first stage submission is final and there is no competition between suppliers or contractors during the second stage of the procurement. The only difference between this type of framework agreement and traditional procurement is that the item(s) are purchased subsequently, often in batches, over a period of time. These framework agreements are called “closed” because no new supplier or contractor can become a party to the agreement after it has been concluded;

8. A “closed” framework agreement procedure with competition in the second stage, concluded with several suppliers or contractors and setting out some of the main conditions of the procurement. The submission of the first stage is called “initial”, because even if each submission is evaluated, a new competition between suppliers or contractors party to the framework agreement must take place during the second stage. These suppliers or contractors then submit a final bid; the contracting authority selects the successful bid at this stage through the second stage competitive process. These framework agreements are also called “closed” in the sense described above.

9. An “open” framework agreement procedure, concluded with several suppliers or contractors and also setting out some of the main conditions of the procurement. The submission of the first stage is called “indicative” because it is not evaluated but examined from the point of view of conformity, and a new competition of suppliers or contractors must take place during the second stage. In this sense, an “indicative” submission is not binding. Suppliers or contractors party to the framework agreement then submit a final submission; the contracting authority selects the successful tender at this stage through second stage competitive bidding, as in closed framework agreements with second stage competitive bidding. These framework agreements remain “open” to new suppliers or contractors, in the sense that any supplier or contractor may become a party at any time during the term of the agreement if they are qualified and their indicative submission is compliant. The practice would be for these agreements to operate electronically.

10. These different types of framework agreements target distinct circumstances, in the sense that the decision to use a framework agreement can be relatively complex: it is necessary to determine which procurement method is suitable for the award of the contract. framework agreement and what type of framework agreement is appropriate. For this reason, it is appropriate to use, for example, open framework agreements for standard goods of current use or simple and recurring services and for other forms to study them on a case by case basis depending on whether they are justified by the purpose of the acquisitions or the nature of the sector or market.

11. As is clear from the definition of the framework agreement in article 98 of the Procurement Code of ECOWAS institutions, the framework agreement is not a market but nonetheless remains a contract enforceable by the parties.

12. Although the framework agreement may be a binding contract, the contract is concluded at the second stage of the procedure, when the contracting authority awards a contract under the framework agreement. Technically, the award occurs when the contracting authority sends a notification by which it accepts the tender submitted by the supplier or contractor during the second stage. This means that the guarantees and procedures provided for in the Public Procurement Code and this Instruction apply throughout the framework agreement procedure.

13. In this regard, it should also be noted that both stages of the framework agreement procedures are subject to challenge under the provisions of the Public Procurement Code on recourse (Articles 25, 26 and 27).

14. For the sake of transparency, neither the Public Procurement Code nor this Instruction offer the possibility to one or more suppliers or contractors to improve their offers unilaterally in a framework agreement.

1. **Application and use of framework agreements**

15. The circumstances of the procurement will determine whether a framework agreement procedure should be used and, if so, its characteristics, such as the type of framework agreement to be concluded, its scope, the number of suppliers or contractors parties. In summary, the effective use of framework agreement procedures will require the contracting authority to determine which type of agreement is appropriate based on the complexity of the subject matter of the procurement or its homogeneity or any other justified reason, and how to ensure competition.

1. **Procurement circumstances suitable for framework agreements**

16. The first of these circumstances is where the contracting authority “should” need the subject matter of the contract “indefinitely or repeatedly” (art. 2-1 a of this Instruction). These conditions are not cumulative, although in practice they may be. In this regard, the reference to an indeterminate need means that one cannot say with certainty when, in what quantity or even if the object of the contract will be needed, and the framework agreement can therefore be used to ensure the security of supply and in anticipation of recurring purchases. The administrative costs of the two-step procedure will be amortized by a greater volume of purchases, as the framework agreement is used for repeated procedures; in this case the framework agreement must relate to significant quantities to enable economies of scale to be achieved. For purchases where the need is undetermined, these costs must be weighed against the probability of the need occurring and the security offered by the framework agreement (for example, by fixing prices and prices in advance). other conditions).

17. The second circumstance is where the subject matter of the contract “may be urgently needed”. The above considerations regarding purchases of undetermined need also apply here.

18. Complex procurements whose conditions (including specifications) vary from one purchase to another or are likely to be modified before the award of the contract, such as large investment contracts or acquisition very technical or very specialized items or more complex services, will therefore generally not lend themselves to a framework agreement procedure.

1. **Selecting the appropriate type of framework agreement**

19. The circumstances of the procurement will guide the choice to be made among the different types of framework agreements available. The first question to address is how to choose between the three types of framework agreements described above, given how competition operates within each type. Closed framework agreements, where the evaluation of initial submissions takes place, assume a lot of competition during the first stage (with or without competition during the second stage). Open framework agreements do not include evaluation of indicative bids during the first stage – only qualifications and conformity are checked – and competition therefore only takes place during the second stage.

20. The precision with which the need can and should be defined at the first stage will determine the extent of competition possible and appropriate at that stage. If the subject of the contract can be precisely defined and is not expected to vary during the duration of the framework agreement, a framework agreement without competition in the second stage, in which one or more suppliers or contractors are selected during the first stage for all or some of the items, will ensure maximum competition during this stage and should result in the best offers. However, this approach is not flexible and requires precise planning: strict standardization may prove difficult or inadequate, especially in the context of centralized purchasing where the needs of each department or contracting authority may vary and where it may be useful to specify requirements, so that needs are expressed less precisely at the first stage, and in the context of uncertain markets (such as future markets in an emergency situation). If the needs of the contracting authority cannot vary but the market is dynamic or volatile, competitive bidding in the second stage will be appropriate unless this volatility is taken into account in the framework agreement (e.g. example by means of a price adjustment mechanism). The more extensive the competition in the second stage, the longer and more complex this stage will be administratively, and the less indicative the offers in the first stage will be of the final result, which can make it more difficult to establish a budget. While competition in the second stage is important, it may also be of little benefit to have rigorous competition in the first stage; an assessment of qualifications and compliance may be sufficient.

21. Consolidating several requirements into a single framework agreement will give the contracting authority flexibility to finalize or clarify its requirements as they arise . The description of the needs of the contracting authority or contracting entities in the initial solicitation will therefore be less precise or will be diverse, as explained in the previous paragraph. There will therefore generally be competitive bidding in the second stage (so that the relevant elements of the package are known for the procurement in question). The approaches suggested in the previous paragraph will therefore be relevant. However, such bundling risks restricting market access, particularly for small and medium-sized enterprises, which may not be able to supply all – probably more importantly – of the items covered by the framework agreement. In this case, partial submissions (by lot) should be given priority in the solicitation file.

22. A closed master agreement with a single supplier allows for better discounts on group purchases, given the likely scale of the potential business volume for a supplier or contractor, especially if the needs of the contracting authority represent a significant share of the overall market, provided that there is sufficient certainty about the quantities of future purchases (in the form of binding commitments from the contracting authority, for example). This type of agreement can also improve security of supply to the extent that the supplier or contractor concerned is probably able to meet all needs. The more common multi-supplier framework agreements are suitable when it is initially unclear who will be the best supplier or contractor in the second stage, especially when requirements are expected to change or be clarified during the second stage. second stage during the life of the framework agreement. They are also suitable for volatile and dynamic markets. In addition, they enable the centralization of purchasing and can improve security of supply when there are doubts about the ability of a single supplier to meet all needs.

1. **Respect for guarantees of transparency, competition and objectivity**

23. Good market planning is essential for establishing an effective framework agreement: framework agreements are not intended to replace market planning. The framework agreement itself must contain the conditions of the envisaged markets (other than those to be defined during the second stage competition). All the conditions, the description of the subject of the contract (including its specifications) , wherever possible and the evaluation criteria must be recorded exhaustively in the agreement itself, both to enhance participation and transparency only due to restrictions on the modification of the conditions during the period of application of the framework agreement.

24. A contracting authority wishing to use a closed framework agreement must follow one of the forms of competitive bidding defined in the Public Procurement Code to select the suppliers or contractors who will be parties to it (i.e. when of the first stage Articles, 8, 10, 11, 26, 27, 29, 30 etc). All guarantees of the chosen procurement method will therefore apply, including its conditions of use and solicitation methods. The equivalent guarantee for an open framework agreement is that it must be established following specially designed open procedures, largely replicating those of the open tender.

25. The provisions governing the award of contracts under framework agreements have been defined in such a way as to ensure sufficient transparency and competition when competitive bidding in the second stage is envisaged on the basis of the rules governing the award of contracts under framework agreements. open call for tenders. The provisions governing the award of a contract and those in the framework agreement with competition during the second stage, in particular those governing the waiting period, guarantee the transparency of decision-making during this stage.

26. The contracting authority must set the maximum duration of the closed framework agreement, which cannot exceed the maximum duration set by the Public Procurement Code which is four (4) years (Article 98 paragraph 6). This maximum includes all possible extensions of the initial duration fixed for the framework agreement concerned. Any suspension of the application of a framework agreement resulting from a challenge procedure extends the framework agreement for a period equal to that of the suspension, its total duration remaining unchanged.

27. Given that some contracts may change more quickly, especially if technical developments are likely, for example in the case of information technology and telecommunications, and the needs of the contracting authority may evolve over a long period , the duration suitable for each type of market may be significantly shorter than the maximum duration. Thus, for different types of procurement and for certain items likely to experience significant development, this duration can even be measured in months.

28. In the case of open framework agreements, the guarantees applied are the obligation to make public the existence of the framework agreement and the obligation to carry out a rapid examination of requests to participate in the agreement.

1. **Operation and monitoring of framework agreements at procurement and system level**

28. The conditions of the framework agreement itself may limit commercial flexibility if one of them sets guaranteed minimum quantities or if the agreement operates as an exclusive purchasing contract, but this flexibility should however be weighed against the offer of better prices by suppliers or contractors. This issue can be resolved a) by using estimated (non-binding) quantities in the solicitation documents so that the framework agreement can facilitate the presentation of realistic offers based on a good understanding of the extent of the needs of the contracting authority, and that the contracting authority may purchase outside the framework agreement if market conditions change, and (b) using binding quantities which may be expressed as minimums or maximums. There may be markets where one solution seems better than the other;

29. Contracting authorities must assess, periodically during the term of a closed framework agreement, whether its prices and conditions remain current and competitive, because they tend to remain fixed and not follow market developments. Contracting authorities tend to award a contract using an existing framework agreement even if the conditions do not fully meet its needs or do not truly reflect the market situation at that time, in order to avoid having to commit a new procurement procedure (and again defining conditions, issuing a procurement notice, verifying the qualifications of suppliers or contractors, reviewing and evaluating initial submissions, etc.). They may then not evaluate price or quality sufficiently when ordering and place too much emphasis on specifications over price. The guidance should therefore address the need to strike a fair balance.

3 0. Ex post control will focus on the use of framework agreements, to ensure on the one hand that the relevant rules are followed and on the other hand that the expected benefits in terms of administrative efficiency and value for money are becoming reality. This control will also be carried out on the way in which each contracting authority uses the framework agreement and the prices it allows to obtain compared to market prices on isolated procurements. An increase in prices or a reduction in the quality of tenders may result from misuse of the framework agreement by one or two contracting entities.

- Preparation and planning of framework agreements

1. In determining the estimated amount of a framework agreement, the contracting authority must take into account the maximum total value of all contracts envisaged under the framework agreement over its entire duration, taking into account all forms of remuneration.
2. Framework agreements are subject to the obligation of publication in the Public Procurement Plan and in the general award notice of the contracting authority of the year of their award following the requirements of Annexes 1 and 2 (Article 8) of the Public Procurement Code.
3. When the framework agreement is closed, the contracting authority is not obliged to include subsequent contracts in the Public Procurement Plan; if the framework agreement is open, its inclusion in the Public Procurement Plan must be renewed each year during its validity.

*Line 2-: Conditions of use of a framework agreement procedure*

1. The contracting authority may initiate a framework agreement procedure in accordance with chapter 98 of the Public Procurement Code when it considers that:
2. The subject of the contract should be requested repeatedly or uncertainly in relation to the consistency, necessity or period of need; these conditions are not cumulative; Or

(b) the subject of the contract can, by its nature, be carried out urgently during a given period.

1. The contracting authority has the option to provide for a minimum and a maximum in value or quantity, or only a minimum, or a maximum, or to conclude a framework agreement without a minimum or maximum.
2. Contracts awarded pursuant to a framework agreement may be contract contracts and are, in this case, awarded and executed according to the rules provided for by this Instruction and by the provisions of article 98 of the Public Procurement Code governing these latter.
3. When a framework agreement is awarded to several suppliers or companies, there being at least three of them, if the number of offers received does not allow this minimum to be reached, the contracting authority continues the procedure with the candidates having submitted said offers regardless of the number.
4. The contracting authority shall indicate in a presentation report the reasons and circumstances on which it relied to justify the use of a framework agreement procedure and the type of framework agreement chosen.

Line 3. Allocation of a closed framework agreement

1. The contracting authority awards a closed framework agreement using an open tender procedure, in accordance with the provisions of the Public Procurement Code; or other methods provided for by the Code.
2. The provisions of the Public Procurement Code which govern prequalification (articles 46 to 48) and the content of the solicitation in the procurement methods mentioned in paragraph 1 of this note apply mutatis mutandis to the information to be communicated to candidates during the first step ; the contracting authority also specifies at this stage:

a) the procurement will take the form of a closed framework agreement procedure;

(b) the framework agreement will or will not be concluded with one or more supplier(s) or contractor(s);

c) the minimum or maximum number of candidates who will be parties thereto, in the case of a framework agreement concluded with several suppliers or contractors, the form and conditions of the framework agreement in accordance with Article 4 below .

1. The provisions of article 98 of the Public Procurement Code apply mutatis mutandis to the award of a closed framework agreement.

Line 4. Rules for closed framework agreements

1. A closed framework agreement is concluded in writing and includes the following information:

a) the duration of the framework agreement, which cannot exceed the maximum duration of 4 years, provided for by the Public Procurement Code (article 98 paragraph 6);

b) description of the subject of the contract and all other conditions of the procurement established at the time of conclusion of the agreement;

c) to the extent that they are known, an estimate of the conditions of the procurement which cannot be established with sufficient precision at the time of conclusion of the framework agreement;

d) in the case of a framework agreement concluded with several suppliers or contractors, a clause indicating whether it will include, during the second stage, competition for the award of a contract on the basis of the agreement- framework, in which case it stipulates:

- the conditions which must be established or specified during this call for competition;

- the terms and planned frequency of any competitive bidding and the deadlines provided for the presentation of bids during the second stage;

1. - the procedures and criteria that will be applied during the second stage competition;

e) the award of a contract on the basis of the agreement will be made to the lowest priced tender or to the lowest evaluated tender (price and other criteria); And

f) the method of awarding the contract.

1. A closed framework agreement concluded with several suppliers or contractors takes the form of a single agreement between all parties, unless:

(a) the contracting authority considers that it is in the interest of a party to the framework agreement for a separate agreement to be concluded with each supplier or contractor party to the agreement;

(b) the contracting authority indicates in the presentation report the reasons and circumstances on which it relied to justify the conclusion of separate agreements; And

(c) variations between the conditions of different agreements for a given procurement are minimal and relate only to those provisions which justify the conclusion of separate agreements.

1. The framework agreement contains, in addition to the information specified in the other provisions of this article, all the information necessary for its proper functioning, in particular the terms of access to the agreement and to notices of future contracts which will be awarded under of it.

Line 5. Establishing an open framework agreement

1. The contracting authority requests participation in the open framework agreement by publishing an invitation to become party to the agreement in accordance with article 71 of the Public Procurement Code.
2. The invitation to become a party to the Open Framework Agreement contains the following information:

a) the name and address of the contracting authority which establishes and administers the open framework agreement and those of any other contracting authorities which will have the right to award contracts on the basis of the framework agreement;

b) a statement indicating that the procurement will take the form of a framework agreement procedure which will result in an open framework agreement;

c) information on its operation, in particular the terms of access to the agreement and to notices of future contracts which will be awarded under it;

d) the conditions for admission of suppliers or contractors to the open framework agreement, in particular:

- the information and justifications referred to in article 98 of the Public Procurement Code;

1. - if the number of suppliers or contractors parties to the open framework agreement is limited pursuant to paragraph 7 of this note, the maximum number set as well as the criteria and the procedure which will be applied in accordance with paragraph 7 of this note article to select them;
2. - instructions for the preparation and submission of indicative tenders necessary to become party to the open framework agreement, including the criteria and procedures which will be applied to verify the qualifications of suppliers or contractors and any parts or other elements of information that suppliers or contractors must produce to justify their qualifications;
3. - a statement expressly indicating that suppliers or contractors may request to become parties to the framework agreement at any time during its period of application by submitting indicative submissions, subject to a maximum number of suppliers;

e) Other conditions of the open framework agreement, including all information required to be included therein in accordance with Article 6 of this Instruction;

f) References to the Public Procurement Code and other laws and regulations directly relevant to the procurement procedure, including those applicable to the award of contracts involving classified information, and the place where these laws and regulations may be consulted;

(g) The name, functional title and address of one or more officers or employees of the Contracting Authority authorized to communicate directly with and receive communications directly from suppliers or contractors regarding the procurement process without the intervention of an intermediary.

1. Suppliers and contractors may apply to become parties to the Framework Agreement at any time during its term by making indicative submissions to the Contracting Authority in accordance with the conditions set out in the invitation to become a party to the Framework Agreement. the framework agreement.
2. In this case, the contracting authority shall examine all indicative submissions received during the period of application of the framework agreement within a maximum period of 15 working days in accordance with the procedures provided for in the invitation to become party to the agreement. frame.
3. The Framework Agreement is entered into with all qualified suppliers or contractors who have submitted a tender unless their tender has been rejected for the reasons specified in the invitation to become a party to the Framework Agreement.
4. The contracting authority shall promptly notify suppliers or contractors whether they have become parties to the framework agreement and, if they have not become parties, on what grounds their indicative submissions have been rejected.

Line 6. Requirements for open framework agreements

1. An open framework agreement provides, during the second stage, for competition for the award of a contract on the basis of the agreement and contains the following information:

a) The duration of the agreement;

b) The description of the subject of the contract and all other conditions of the procurement known at the time of establishing the open framework agreement;

c) The conditions which may be specified during the second stage competition;

d) The modalities and planned frequency of the second stage competition;

e) A clause indicating whether the award of contracts on the basis of the framework agreement will be made to the lowest priced tender or to the lowest evaluated tender;

f) The procedures and criteria that will be applied as part of the second stage competition.

1. During the entire period of application of the open framework agreement, the contracting authority republishes at least once a year the invitation to become a party to the agreement and further guarantees free, direct and complete access to the conditions of the agreement and any other necessary information regarding its application.

Line 7. Second stage of a framework agreement procedure

1. The award of a contract on the basis of a framework agreement is made in accordance with the conditions of the agreement and the provisions of this article.
2. A contract can only be awarded on the basis of a framework agreement to a supplier or contractor who is a party to it.
3. The rules of integrity and transparency provided for by the Public Procurement Code apply to the acceptance of the tender to be retained in a framework agreement without competitive bidding during the second stage.
4. When the re-competition is organized at the time the need arises and this framework agreement has been divided into lots, only the holders of the lots corresponding to the subject of the contract based on the framework agreement are consulted.
5. When the recompetition is organized according to a periodicity provided for by the framework agreement, it concerns all the lots.
6. In a closed framework agreement including a call for competition in the second stage and in an open framework agreement, the following procedures apply to the award of a contract:
7. The Contracting Authority issues a written invitation to submit bids, simultaneously:

- To each supplier or contractor party to the framework agreement; Or

- Only to suppliers or contractors parties to the framework agreement who are then capable of meeting its needs concerning the subject of the contract, provided that at the same time all parties to the framework agreement are notified of the implementation in competition for the second stage so that they have the opportunity to participate;

1. The invitation to submit submissions contains the following information:

- A reminder of the existing conditions of the framework agreement which will appear in the planned contract, the conditions which will be subject to competitive bidding during the second stage and further information on these conditions if necessary;

- A reminder of the procedures and criteria for awarding the planned contract;

- Instructions for preparing submissions;

- The method, place and deadline for submitting submissions;

- If suppliers or contractors are authorized to submit tenders for only part of the subject matter of the contract, a description of the part or parts for which tenders may be submitted;

- The manner in which the price of tenders must be formulated and expressed, including a statement indicating whether it will include elements other than the cost of the subject of the contract, such as any transport and insurance costs, customs duties and applicable taxes;

- The name, functional title and address of one or more directors or employees of the contracting authority authorized to communicate directly with suppliers or contractors and to receive communications directly from them regarding the competitive bidding process. the second stage, without the intervention of an intermediary;

- A statement indicating that article 9 of this Instruction, in accordance with article 27 paragraph 7 of the Public Procurement Code, gives candidates the right to contest decisions or acts of the contracting authority that they consider non-compliant the provisions of the Public Procurement Code, as well as information on the duration of the waiting period and, if no waiting period applies, a statement specifying this and indicating the reasons for this non-application;

- The formalities which must be completed, once the successful tender has been accepted, for a contract to enter into force, including, where applicable, the signature and approval of the contract;

- Any other rules established by the contracting authority, in accordance with the procurement regulations, concerning the preparation and presentation of tenders and other aspects of the second stage competition;

1. The contracting authority evaluates all tenders received and decides which tender is to be selected in accordance with the evaluation criteria and procedures provided for in the invitation to submit tenders;
2. ) The contracting authority accepts the successful bid, in accordance with article 88 of the Public Procurement Code.

Line 8. Changes during the period of application of a framework agreement

During the period of application of the framework agreement, no modification of the description of the subject of the contract is permitted. Other conditions of the procurement, including the criteria and procedures for awarding the intended contract, may be varied only to the extent expressly authorized by the framework agreement.

Line 9. Control of procedures for awarding framework agreements

1. The authorities in charge of controlling public contracts, in accordance with the thresholds set in appendices 1 to 8 (article 8) of the code, issue for each institution, an opinion on the tender files before the launch of the award concerning framework agreements, whatever the estimated amount.
2. They also issue an opinion on the comparative analysis report of the offers or proposals and on the minutes of the candidate parties to the framework agreement, if the estimated value of the framework agreement is equal to or greater than the thresholds set by the order setting the thresholds for a priori control of contract files; it also carries out a legal and technical examination of draft framework agreements under the conditions of nature and amounts set by the above-mentioned decree.
3. The second stage relating to the award of subsequent contracts is also approved in the forms and terms.

Line 10. End of framework agreements

1. The framework agreements end under the conditions provided for by all the signatory Parties, in strict compliance with the provisions of the code (article 98);
2. The contracting authority may terminate a framework agreement, in accordance with the provisions set out in the said agreement, in strict compliance with the aforementioned provisions of the code.