

THE LEARNING AND SKILLS COUNCIL

CONSULTANCY SERVICES FRAMEWORK FOR MAJOR BUILDING PROJECTS

Guidelines and Working Practices for Colleges and FE Providers

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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 the South East Centre for Excellence (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 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 will be 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.

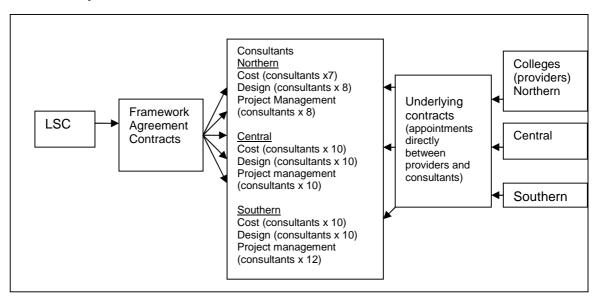
It will be a condition of LSC grant support (including fee support) that colleges will procure consultancy advice for such projects in the framework disciplines in accordance with the framework guidelines (see section 3).

The frameworks will be available for use by other FE providers, but utilisation of the frameworks will only be 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 will be 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 and other FE providers as employer and the selected consultant.

Contractual difference between the Framework Agreements and 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 to
- 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 including:
 - Project Manager
 - Strategic Property Advisor
 - o CDM Coordinator operating across the framework
- Cost Management including:
 - Quantity Surveyor
 - Supply Chain Manager
- Design Services including:
 - Architect (including landscape architect and interior designer)
 - Mechanical and Electrical Engineer
 - o Civil and Structural Engineer
 - Acoustician, ICT and other specialists
 - Land and Building Surveyor
 - BREEAM Assessor (operating across the framework)

The exact scope of consultancy services required by a college or FE provider will be determined by the specific project requirements. However, for guidance, roles typically adopted by the above disciplines are listed in appendix 1.

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 2 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. At the time of writing (April 2008) discussions are underway for Hampshire County Council (HCC) to be appointed as framework manager to support providers where requested and report to the LSC 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, management and leadership of the framework.

Final arrangements for governance of the framework will be confirmed in due course but it is likely that governance will take place through the LSCs National Capital Policy Group and through a strategic forum and a steering group.

The strategic forum will include directors from the consultancy firms appointed to the framework, and their nominated managers. This will provide the consultancy firms with the opportunity to influence the framework arrangements and to collaborate with other framework consultancies.

The steering group will comprise a representative from the LSC infrastructure and property services team, the framework manager (HCC in the first instance), Regional Property Advisor representation, a member of the LSC procurement department and a member of the LSC legal department. The group will meet quarterly and any changes to the constitution will require prior approval through the capital policy group.

The governance of individual projects is the responsibility of the college concerned as the contracting authority.

Support

The LSC will ensure 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 LSC will also ensure that the results of mini-tenders are collated and that it monitors and addresses any operational issues arising so as to enable it to fulfil its governance role.

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 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 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.

SECTION 3 – WORKING PRACTICES

How and when is the Framework to be used?

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

If the Framework is not used, there is still a requirement to adhere to any EU regulations that apply, together with any applicable institution financial regulations. This includes those under the Charities Act if the organisation receives charitable relief – and such funding conditions as may be imposed by other funders such as regional development agencies.

Step 1 - Strategy

- agree an educational/training strategy with the governing body and LSC Area Office:
- include agreement of a five-year forecast of student numbers for each of the Sector Subject Areas, split between HE, FE 14-16, 16-19 and apprenticeships:
- from this, develop and agree a broad Property Strategy with your Regional Property Advisor. (Guidance for this is in the Capital Handbook).

Step 2 - Capacity

- decide whether there is adequate in-house capacity at senior management team level, or whether there is a need for additional client-side property expertise to help organise the appointment of other consultants and develop feasibility studies;
- if it is concluded that help is needed, proceed to Step 3;
- if it is concluded that there is adequate in-house expertise to brief a team direct, proceed to Step 4.

Step 3 – Property Advisor (Mini Tender)

- a strategic property advisor should be appointed from the Framework for the region (see Appendix 2), to assist with the tender process;
- Through the framework manager, colleges will request expressions of interest from all consultants on the framework which are providing the required services. Consultants must respond within one week using the scoring prompts provided in Appendix 3.
- Colleges must only approach those consultants which are within their own region.
- an expression of interest document should include the following information:

- background information about the college, including range of curriculum provided etc;
- a brief overview of the existing estate location, number of sites etc:
- a description of the project including any progress made to date:
- scope of services required, e.g. feasibility study, preparation of AiP etc;
- o range of services required;
- key dates, including timescales for response to the expression of interest.
- The framework manager will agree a shortlist with the college, and three consultants will participate in a mini competition.
- Consultants are expected to respond within two weeks including within their bid:
 - Proposed fee for the services required, based upon the tender fee rates
 - Confirmation that the resources are available to devote to the project
 - Response to other local issue questions (stakeholder communication etc)

Submissions will be assessed by the college or FE provider. The bid will be assessed using a simple range of 1-5;

5 = Excellent

4 = Good

3 = Fair

2 = Acceptable

1 = Poor

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.
- Appendix 4 sets out the process to be followed to make an appointment from the frameworks.
- If requested, the LSC and its nominees will assist with the cost scoring, which will be formulated from the original tender reports and be indexed each year in order to keep costs current. If there is any doubt regarding the fees being quoted by each consultant, the matter can be discussed with the LSC and/or its nominee who will help to establish the reasons for any significant difference.

Step 4 - Appointment

At this stage a decision has to be taken on how far through the process the consultant is to be appointed. This may just be for the feasibility study stage only, or it may be to have the option to continue with that same team through to Approval in Principle (AiP) and, potentially, through to project completion.

a. Briefing

Depending on the decision, a clear brief of the services required will need to be developed, e.g. feasibility study or feasibility study plus project development and execution.

Guidance on what should be included will be given either by the Strategic Property Advisor or the in-house expertise and from the framework manager or the LSC's Capital Handbook. The Professional Institutions of the main consultant bodies also have standard terms of engagement which offer a useful reference for the scope of services that should be included. See RIBA, RICS, ACE.

If listed buildings, trees or flooding are likely to be major factors affecting a project, then appropriate planning and environmental advice will also need to be procured. If mining subsidence or radon is a potential problem, then geotechnical services should be procured.

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

The project process can be managed either by the appointment of a lead consultant, who will take responsibility for the employment of all others (but from the Framework); or separate appointments can be made for each consultancy discipline from the framework. The choice of which is the better option to adopt will have to be decided in conjunction with the advice of solicitors and Strategic Property Advisor or in-house expert.

This is a very important issue as it has an impact on the legal duties of care and the requirement for collateral warranties etc.

Gateway Reviews will have to be built into the process, allowing review of team performance before triggering the subsequent stages of the process at the following points. Fees should be staged in line with these Gateway points, i.e.

- End of feasibility study report
- End of Application in Principle (RIBA Stage C)/beginning of Detailed Application (RIBA Stage D).
- Appointment of Contractors
 - o or novation of consultants if applicable
 - o or submission of detailed application to the LSC
- Completion of project (evidenced by issue of Final Certificate).

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.

In conjunction with the Strategic Property Advisor (or in-house team) careful consideration needs to be given to the advantages of various routes of contract procurement and the effect on the time-quality-cost balance.

Regular discussions should be held with the LSC's Regional Property Advisor to agree the balance that is most relevant to the project; to offer maximum flexibility for whatever is likely to offer the optimum procurement route for the project and deliver the required project outcome.

b Mini-Tender – (4 – 6 Weeks)

This is a repetition of the process set out in Step 3 (above); with the exception of the appointment of the range of consultants likely to be needed for the duration of project, and of that appointment.

Through the framework manager, seek confirmation from all the consultancies on the relevant Framework lists that they have the resources to provide the services required, by issuing an expression of interest request as before; this will take no more than a week and can be done electronically.

At the next stage, short list at least three consultancies from whom a quality and fee bid will be invited to include:

- Proposed fee for the services required, based upon the tender fee rates
- Confirmation that the resources are available to devote to the project
- Response to other local issue questions (stakeholder communication etc)

The expression of interest evaluation forms given in Appendix 3, should be used to score responses. It should take no longer than 2 weeks to deliver a response to the request for a bid, with a further week for interviews (which should always take place) to decide on which consultancy is the preferred bidder.

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.

This constitutes good practice and will enable the LSC to 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.

The overriding principle here is "**keep it simple**" and the bids (against the brief) should be marked simply using a range of 1-5.

5 = Excellent

4 = Good

3 = Fair

2 = acceptable

1 = Poor

This will enable the LSC and its nominees to check whether there is significant variation between the consultants' performance relative to their scoring for the Framework. Again, this will help identify if there is perhaps a resourcing issue that the LSC and its nominees need to address with the consultants.

The fee element quoted should also be scored from 1-5.

This element of the scoring will be undertaken using the costs submitted in the original tender reports as a basis. The costs will be indexed each year to ensure prices are current. If there are any doubts as to the fees being quoted by each consultant, these can be discussed with either the Regional Property Advisor or the Framework Manager.

c. Appoint

Consultant appointments will be made using the GC Works 5 Form of consultancy appointment as a template, in accordance with the information issued in the ITT (see appendix 6). The institution's appointed solicitor will draw up the appointment document including any collateral warranties and performance bonds you will have stipulated as being required in the mini-tender brief.

d. Gateway Reviews

Appendix 5 provides an outline pro forma which should be used when undertaking gateway reviews. These need to be undertaken to carry out a formal review of how the project is progressing at each of the gateway stages referred to above.

Ideally, this would take the form of re-scoring the firms against the same criteria used in the mini-tender. An additional category for actual performance against timely responsiveness should be added. This should address the efficiency and effectiveness of the team with particular reference to how it is working together, and if there are problems how are they to be addressed.

The review scoring should use the same 1-5 range as set out above but it maybe used as a more explicit risk management tool by converting these scores to a "traffic light" (1 = red, 2-3 = amber and 4-5 = green) system which will help to identify where risks may need to be dealt with in conjunction with the lead partner in the appointed consultancy and steps agreed to address any concerns.

The outcome of the review should be fed back to the lead consultant in each of the consultancies and a copy given to the LSC and its nominees to assist with overall monitoring of the Framework.

It should also allow the opportunity for the consultant to feed back on the effectiveness of the client, suggesting ways in which this role might be better performed.

If the project progress is satisfactory, the consultant's appointment can be confirmed to the next gateway review stage.

If there is a serious problem that is not likely to be addressed by the undertakings received in discussion with the lead partner in the consultancy, the appointment of that consultant should be terminated, and the same process of mini-tendering used to appoint a new consultant.

e. Final Review

By feeding back experience from the project to the Consultant, the LSC and its nominees the Framework can be strengthened and others can benefit from this experience.

Consultants can also benefit from the feedback and know exactly how they need to improve to meet clients' expectations better. In this way, the Gateway and Final Reviews are a way of improving overall standards of performance.

Scoring should follow the same system as the Gateway Reviews and a short but specific report made on each appointment. This should be fed back to the consultant and to the LSC and its nominees.

Frequently Asked Questions

Q1 What if I have already started the project process?

- Where colleges have already entered into contractual arrangements with consultants who are not on the Framework (following an appropriate procurement process), there will be no requirement to use the LSC Framework except where a college exercises a break clause at a key gateway or would otherwise be required to OJEU the consultancy appointment.
- Before the launch of the frameworks, where colleges have already commenced an OJEU/procurement process to appoint consultants for services otherwise available through the framework then there will be no requirement to use the LSC Framework. This is conditional on the college confirming that to halt the existing procurement process (e.g. OJEU) and to switch to the Framework would cause a material delay to the appointment process.

In both cases, the college must ensure that appropriate provision is made in the appointment contract to break that appointment at key gateways, i.e. at the end of feasibility, and end of AiP. At these gateway reviews, and when the college submits an application for AiP or AiD approval (and/or when the college submits an application for project fee support) the college will need to provide evidence that it has been through a robust review of project team performance before continuing an appointment made outside the Framework.

This would be in accordance with the performance/gateway review process set out in the Framework guidelines for appointments within the Framework (using a Red, Amber, Green assessment). If Green, the college has established that it can continue with the consultant appointment. If either Amber or Red, the college will

need to use the Framework. In these circumstances the existing consultant cannot be included (under OJEU regulations).

Therefore in either of the above cases, in the event that contractual arrangements cease to apply, i.e. if the colleges exercise a break clause at the end of feasibility or AiP, then the Framework must apply.

Q2 What if I like the Architect, but have concerns about the performance of their proposed sub-consultants – can I use one of the sub-consultants who are on the Framework but under another Architectural practice?

No. The matter will need to be addressed by the principal consultant with whom the College or Provider has a contractual relationship.

Q3 The College get on very well with the Project Managers who are on the Framework for a different region. Can we appoint them?

Rarely. This may happen in exceptional circumstances – for example, a complete lack of capacity in the subject region – when it might be permissible, but only with the express prior consent, of the LSC.

Q4 From when do the Frameworks become effective?

From the 1 May 2008 all institutions seeking grant support for projects likely to cost £5 million or more will have to engage consultants via the framework.

Q5 Can I just appoint one consultant to do everything?

During the development of the frameworks, consultants were required to tender on the basis of one or more of the following conditions of operation:

- i) a multi-disciplinary consultancy
- ii) a consortium all members of the consortia shall be jointly and severally liable.
- iii) a lead consultant employing all required disciplines

Further information on the consultants appointed to the framework, can be found at appendix 2.

Q6 Do I have to appoint all consultants at the feasibility stage?

No. A Strategic Property Advisor can be appointed who from the framework, can procure the necessary expertise to establish the feasibility and viability of a proposal before committing to appointments of other consultants.

SECTION 4 – APPENDICES

Appendix 1 – Consultants' role definitions

Appendix 2 – List of consultants appointed to the Framework

Appendix 3 – Expression of Interest Evaluation Form

Appendix 4 – LSC Project Process

Appendix 5 – Gateway Review template forms

Appendix 6 – Example of GC works 5 Forms of Contract

Appendix 7 – Framework management contact details

Appendix 1

Range and scope of services subject to the LSC Consultancy Framework

• Project Management:

- Project Manager
- Strategic Property Advisor
- CDM Coordinator operating across the framework

The Project Manager performs the informed client role, and will work closely with the LSC's project champion to ensure full stakeholder consultation takes place. The Project Manager will report to the College Management Group and may be required to report to the non-executives in some cases, and will:

- Advise the client of the project process, programme and financial position. This should include advice on cost, funding and the possible effect on college cash flow.
- Lead the process of option selection using appropriate tools and methodology
- o Select other consultants and contractors to the agreed process
- Assemble the project team
- Ensure team roles and responsibilities are assigned, understood and carried through
- Provide client challenge throughout the design and construction process
- o Lead the gateway reviews of the other consultants. The gateway review for the project manager must be carried out by the college.
- Act as client Project Manager during and after construction.

This role would also combine- meaning? Procure? Provide? key specialists to provide strategic property advice on all property, buildings and estate matters. The role will also oversee and deliver the CDM Coordinator role.

Cost Management

- Quantity Surveyor
- Supply chain manager

The Cost Manager will be responsible for the financial management of any project procured through the arrangement, with specific responsibility for:

- Feasibility studies and option appraisals
- o Development and management of the agreed cost plan in conjunction with the project team
- Preparing regular reports on the financial standing of the project to the Project Champion and Project Manager in accordance with the LSC's procedures.
- Leading the procurement process in conjunction with the other team members and the contractor to achieve cost and contractual certainty as well as appropriate procurement means to achieve a high quality building on completion.
- o Financial management of the construction stage including cost forecasts, change control, interim payments and final account
- Supply chain development and financial management.

Design Services:

- Architect (including landscape architect and interior designer)
- Mechanical and Electrical Engineer
- Civil and Structural Engineer
- Acoustician, ICT and other specialists
- o Land and Building Surveyor
- o BREEAM Assessor (operating across the framework)

The service provider will provide a full design service and will:

- Undertake Feasibility studies and option appraisals
- o Contribute design inputs to a process led by the Project Manager. Masterplanning.
- o Provide a fully integrated design service for any major college project in accordance with the LSC's guidelines and standards.
- o Provide and manage an integrated design programme including key deliverables and milestones for all design disciplines.

- Ensure the design meets the client functional need and provides value for money. 0
- Carry out regular value management and engineering reviews. 0
- Obtain all necessary planning and other approvals.
- Work collaboratively with the other project team members to ensure the success of the project. Administer the building contract where applicable. 0
- 0

Appendix 2

Learning and Skills Council Framework Agreements.

List of Lead Consultants – Contact Information

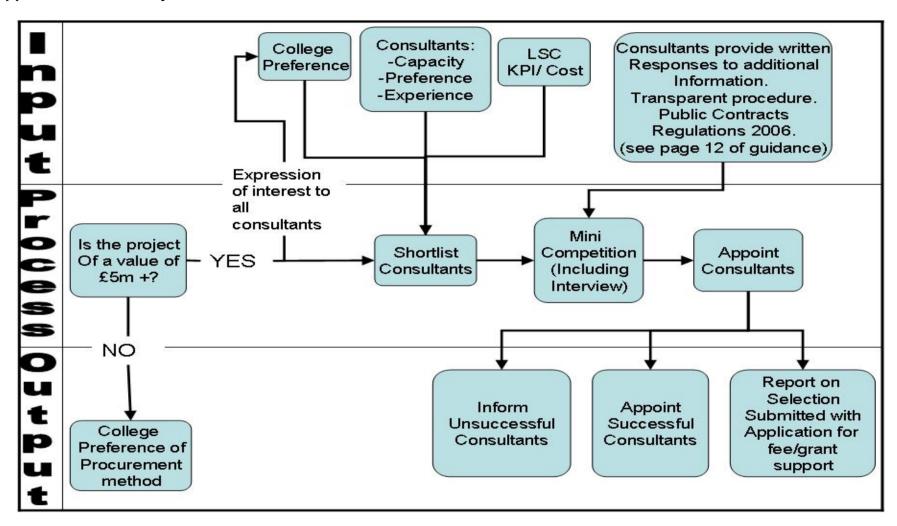
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| | | |

Appendix 4 – LSC Project Process



Appendix 7 – 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