



Legal Aid
Agency

Frequently Asked Questions related to the Procurement of Criminal Legal Aid Services in England and Wales from July 2015

Many questions will be answered by the information given in the Information for Applicants document (IFA), which is available on the Tenders pages of our website:

<http://www.justice.gov.uk/legal-aid/contracts-and-tenders/tenders/2015-crime-tender>

The IFA is also available within the PQQ in the eTendering system.

The deadline for questions about the IFA or the tender was **12 noon on 12 May 2014** (note this is referred to as the “End date for supplier clarification messages”) on the eTendering system. We are therefore unable to answer questions received after that deadline. Please note that there will be a further opportunity to ask questions relating to the 2015 Duty Provider Contract as part of the tender process for that contract.

Questions that we consider to be of wider interest have been collated and answered centrally in writing to ensure that all interested parties have equal access to information in the answers. These questions and answers will be published in this FAQ document.

This final FAQ document incorporates questions received up to the above deadline.

New information in this version of the document is in [blue text](#).

Technical Questions on how to use the eTendering system

There is a Helpdesk to provide technical support to Applicant Organisations using the eTendering System. However, the Helpdesk is **unable** to assist with problems with your own computer hardware or systems - for these types of issues; you should contact your usual IT support.

Questions should be emailed to the following email address: LAATenderHelpdesk@ventura-uk.com. Alternatively, the telephone number for the Helpdesk is 03330 037060 (lines are open from 9am to 6pm Monday to Friday).

The Helpdesk remains open until the tender closes. However, we recommend that you start to complete your tender early so that you identify any areas where you need technical help as soon as possible, as the Helpdesk is likely to be very busy in the days leading up to the tender deadline and cannot guarantee that queries received close to the tender deadline will be dealt with in time.

The deadline for receipt of Tenders is 12 noon on 23 May 2014.

1. What do you mean by ‘necessary authorisation to provide Contract Work by one of the legal regulators’ in question A.9.i of the Tender?

As set out at paragraph 1.14 of the Information For Applicants (IFA) Applicant Organisations awarded an Own Client Contract must have been granted appropriate authorisation by a relevant legal sector regulator. Currently the only legal sector regulator who may grant authorisation to organisations for work under this Contract is the Solicitors Regulatory Authority (SRA).

If an Applicant Organisation currently holds such authorisation from the SRA they should answer “Yes” to this question.

2. If my organisation is authorised to provide Contract Work by the SRA, how should I respond to question A.9.ii of the Tender?

Where an Applicant Organisation currently holds the necessary authorisation to provide Contract Work, it should provide its SRA registration number in answer to question A.9.ii.

3. Is there an ITT I need to complete to bid for an Own Client Contract by 23 May 2014 in addition to the PQQ?

There is no separate ITT to complete in relation to the Own Client procurement process. As outlined in the IFA, to submit a tender for this stage of the procurement process Applicant Organisations need only access and respond to ‘PQQ 55 - Procurement process for Own Client Crime Contracts from July 2015’ in the eTendering system.

Applicant Organisations who are notified of our intention to award an Own Client Contract will be invited to submit responses to our Invitation to Tender (ITT) for Duty Provider Contracts (which we anticipate will commence in July 2014).

4. I am considering changing my status from a partnership to a Limited company but am unsure whether this will happen. Should I submit more than one bid?

If Applicant Organisations do not intend to merge or change their organisational structure other than to change their legal status there is no need to submit more than one Tender.

As set out at paragraphs 4.2 and 8.33 of the Information For Applicants, if the Applicant Organisation’s Tender has been assessed as successful and it subsequently changes its status or any material element of its Tender after the Deadline and before the Service Commencement Date, the Applicant Organisation must inform the LAA. The LAA will conduct a re-assessment to ensure the Tender is not adversely affected.

5. I am considering merging with a local firm under my current crime contract, although this may not be finalised by the deadline for the Own Client Tender. Our intention is to bid for a Duty Provider Contract as a new, merged legal entity. How should we tender for Own Client Contracts in case the merger does not go through?

Each party to the prospective merger may submit an individual Own Client Contract Tender (to safeguard against the proposed merger not taking place) in addition to

submitting a Tender as the proposed merged legal entity. For example, Own Client Tenders may be submitted in the names of

- Smith & Co;
- Jones & Co; and
- Smith & Jones (the proposed merged organisation)

Subject to assessment it will be possible for all three Applicant Organisations to be successful in the Own Client Contracts procurement process.

Should the proposed merger take place Smith & Jones should apply for a Duty Provider Contract by submitting a response to the Duty Provider Invitation to Tender when this stage of the procurement process opens.

If the merger does not take place the two original organisations can proceed with the Own Client Tenders submitted in their own names.

6. We have a number of offices but the eTendering system only allows us to submit one address. Did we need to submit separate Tenders for each office? Are the rules different if the offices are in different procurement areas?

Applicant Organisations should submit one Tender for their organisation, unless they are considering applying for a Duty Provider Contract as a different entity from their current configuration as set out at paragraphs 1.17 – 1.22 of the Information For Applicants (IFA).

As stated at paragraph 2.5 of the IFA Applicant Organisations will only be required to provide details of one Office at this stage. Successful Applicant Organisations who wish to deliver and administer services from additional Offices will be asked to provide further details during the verification stage (in early 2015) to inform contract documentation.

The above applies regardless of whether or not the Offices are in the same Procurement Area.

7. Our main office undertakes Crime, Prison Law and Appeals and Reviews work but the organisation also has offices in different procurement areas that only conduct Prison Law and Appeals and Reviews work (not Crime).

Should we submit Tenders for our main Office only now and then submit Tenders for Prison Law and Appeals and Reviews work when that process open later this year or should we submit one Tender which covers our whole organisation?

As stated at paragraph 2.5 of the IFA Applicant Organisations will only be required to provide details of one Office at this stage. Successful Applicant Organisations who wish to deliver and administer services from additional Offices will be asked to provide further details during the verification stage (in early 2015) to inform contract documentation.

The 2015 Own Client Crime Contract procurement process operates at an organisation level. Any organisation that wishes to conduct Prison Law and/or Appeals and Reviews work in addition to Own Client Contract Work must respond to this procurement opportunity.

8. Are all proposed Supervisors required to have CLAS under the 2015 Own Client Crime Contract? Is this different from current contract requirements?

Yes, all Supervisors must have CLAS under the Own Client Contract. There is now a single route through which Supervisors may qualify which is different from the requirements under previous LAA contracts.

Further details of the requirements for the Supervisor route of qualification is set out at 2.14 of the 2015 Own Client Crime Contract Specification.

<http://www.justice.gov.uk/legal-aid/contracts-and-tenders/2015-own-client-crime-contract>

9. I was passported onto CLAS. Will I have to re-qualify for CLAS if I want to be a Supervisor?

The LAA will accept individuals passported onto CLAS by the Law Society as meeting this aspect of the Supervisor Standard.

10. The Supervisor Declaration Form requires Supervisors to confirm 'Areas of Knowledge (undertaken in the previous 12 months)'. What 12 month period does this refer to?

The LAA will start requesting information to verify for Own Client Contract Tenders, including completed Supervisor Declaration Forms, in January 2015 and Applicant Organisations will have until the Service Commencement Date to provide compliant forms. In completing the Supervisor Declaration Form we would expect the 12 month period to run backwards from the date of completion. For example if the Declaration Form is signed on 10 February 2015 the 12 month period would run from 11 February 2014 to 10 February 2015.

In addition, as set out at 2.14 of the 2015 Own Client Contract Specification, Supervisors will be required to ensure that at any time during the Contract, in the previous 12 months they have undertaken the minimum number of Police Station and Magistrates' Court cases.

The 2015 Own Client Crime Contract Specification can be found at:

<http://www.justice.gov.uk/legal-aid/contracts-and-tenders/2015-own-client-crime-contract>

11. The draft 2015 Own Client Contract Specification at 2.14 D states that you can qualify as a Supervisor if you have done a minimum of 20 Magistrates Court representations and advocacy under a representation order or, 10 magistrates court representations and advocacy and 5 crown Court representations and advocacy.

The Supervisor Standard and Declaration Form SUPP-CR1 refers only to 20 examples of Magistrates Court representation and advocacy under a representation order but does not refer to crown court representation and advocacy as detailed in the draft specification. Which is correct?

The draft 2015 Own Client Contract Specification sets out at 2.14 the requirements Supervisors must meet. Supervisors must be able to demonstrate case experience of either i) a minimum of 20 magistrates' court Representations and advocacy under a Representation Order, or ii) undertaken a minimum of 10 magistrates court Representations and advocacy and five Crown Court Representations and advocacy.

An updated copy of the Supervisor Declaration Form can be found at:
<http://www.justice.gov.uk/legal-aid/contracts-and-tenders/2015-own-client-crime-contract>

12. Are we able to use experience gained from working for private clients in order to meet the Supervisor requirements?

Yes. Experience need not necessarily be limited to publicly funded work. Private work may be used to evidence the requirements and the LAA may request evidence of the work undertaken in the form of redacted time recording information, for example.

13. We understand that we can use private client work to meet the portfolio requirements in both Magistrates Court and the Police Station. Can we use representation undertaken in the former, when acting as Duty Solicitor likewise?

Experience need not necessarily be on publicly funded work.

There is no fundamental difference between work conducted on an own client basis or as a duty solicitor. On that basis experience may be counted whether it was obtained when acting for an own client or duty client.

In completing the Supervisor Declaration Form, proposed Supervisors may use any experience of undertaking Magistrates' Court representation and advocacy under a Representation Order gained within the relevant 12 month period. For the avoidance of doubt, this does not include work conducted under Advocacy Assistance by a court Duty Solicitor.

14. Can a Supervisor be a nominated Supervisor on 2 different Own Client Contracts held by 2 different providers?

No, as set out at 2.21 of the draft 2015 Own Client Crime Contract Specification, save in respect of Prison Law, contract holders must not Employ a Supervisor in respect of a Class of Work who is also a Supervisor for another Provider or any other organisation.

External supervision arrangements are not acceptable.

15. Does a job share between two solicitors, who between them work more than 35 hours a week and who both meet the supervisor requirements, be acceptable as "FTE equivalent" Supervisor?

Yes, subject to the minimum Supervisor ratios set out at 2.21 of the draft 2015 Own Client Crime Contract Specification Supervisors Employed by an organisation may job share in order to meet the requirement for Full Time Equivalent Supervisor requirement.

16. Can an Agent be a Designated Fee Earner for more than one Own Client contract holder?

Agents and Designated Fee Earners are mutually exclusive terms.

Agents are other Own Client Contract holders you instruct and are subject to the 25% cap on the value of the Contract Work they undertake on your behalf.

Own Client procurement process for criminal legal aid services from July 2015
Frequently Asked Questions (FAQ) – Version 4, 20 May 2014

Designated Fee Earners are individuals you deploy on contract work and whom you directly supervise, file review etc. Use of Designated Fee Earners (who may be your directly employed staff or self employed police station representatives etc.) is not considered to be use of Agents and does not count towards the 25% cap.

Individuals may be Designated by any number of contract holders (provided each contract holder actively supervises, file review etc) their work as they would do for their directly employed staff.

For example; a self employed police station representative may be designated by 5 Own Client Contract holders in a town. When used by one of the contract holders they are treated as if a directly employed staff member. Each of the 5 contract holders must undertake supervision and file review activities should they actually instruct this representative.

17. Will police station representatives who are self employed need to hold an Own Client Contract in order to act as an agent in the police station for a supplier who holds an Own Client and Duty Contract?

Individuals cannot act as Agents as defined in the 2015 Own Client Crime Contract Standard Terms.

Where an individual is not in a position to hold an Own Client Contract they will not meet the definition of Agent under the contract.

However, self-employed Accredited or Probationary Police Station Representatives can be “Designated Fee Earners” and deployed by a contract holder to provide services to detainees at a police station.

Therefore, whilst a self employed police station representative cannot be instructed as an Agent they can be instructed if they are the contract holder’s “Designated Fee Earner” and subject to appropriate supervision and file review by the contract holder.

18. Where can I find more information regarding the requirements to use secure email?

Further information regarding the requirements for secure email accounts, including how to sign up for Secure eMail can be found on the CJS Efficiency Programme Defence Practitioner pages of our website: <http://www.justice.gov.uk/about/criminal-justice-system-efficiency-programme/defence-practitioners>

19. There is a ‘check mandatory fields completed’ facility on the eTendering system which checks whether all mandatory responses have been completed. In recent procurement processes the system automatically indicated any missed fields before you could submit. Does the ‘check mandatory fields completed’ facility replace this?

No, the eTendering system will not allow Applicant Organisations to submit a Tender without all mandatory fields completed.

The 'check mandatory fields completed' facility was added as an aid to Applicant Organisations to help check that a Tender was ready for submission. For the avoidance of doubt, it does not provide an assessment of the responses to those questions or confirmation that they have been answered correctly.

20. We are forming a new organisation so do not yet have an assigned Compliance Officer For Legal Practice (COLP) in the firm. Who should give the declaration in Annex A that the information given in the Tender is accurate?

Paragraph 8.6 of the Rules Of The Own Client Procurement Process in the IFA states the tender should be authorised by either "*the Applicant Organisation's Compliance Officer or the proposed Compliance Officer for Legal Practice.*"

21. We currently have a COLP assigned within the firm. Should the COLP change prior to the commencement date, should we notify the LAA and how should we do this?

As set out at paragraph 8.33 of the IFA, Applicant Organisations should inform the LAA of any material changes to tender information as soon as possible via the eTendering system message board. This would include a change in the assigned COLP.

22. If a firm bids for and gains an Own Client Contract plus Prison Law Contract Work and Appeals and Reviews Contract Work, what happens if ultimately that firm does not secure a Duty Provider Contract? Will the Prison Law Contract Work and Appeals and Reviews Contract Work be unaffected?

Yes, authorisation to undertake Prison Law Contract Work and Appeals and Reviews Contract Work will be granted under the 2015 Own Client Crime Contract. Where Applicant Organisations are successful in the Own Client Contract Tender and have indicated as part of their Tender that they wish to carry out Prison Law Contract Work (as set out at 4.3 and 4.10 of the IFA) then this will be granted as part of their 2015 Own Client Crime Contract, subject to meeting the Prison Law Supervisor Standard. The 2015 Duty Provider Crime Contract is a separate Contract.

23. If we apply for an Own Client Contract and apply to undertake Prison Law Contract Work but at the verification stage find we are unable to meet the Supervisor requirements for Prison Law Contract Work will this prevent us from being awarded an Own Client Contract?

No, where Applicant Organisations are unable to meet the requirements to undertake Prison Law Contract Work by the Service Commencement Date the LAA will not authorise this work as part of the 2015 Own Client Crime Contract, but this will not affect the Applicant Organisation's ability to hold the 2015 Own Client Crime Contract itself.

24. In one of the questions in section C, I am not sure whether my circumstances count as exceptional, or whether it will be OK for me to select "No". Can you explain in more detail what situations mean I should select "Yes" and give exceptional circumstances?

We are unable to give more specific information on the wide range of possible exceptional circumstances. Applicant Organisations must decide whether they believe that they can demonstrate that there are exceptional circumstances which mean the LAA should exercise discretion to allow the application to proceed.

If you are unable to answer “No” to the question for any reason, however small, you should answer “Yes” and give those exceptional circumstances which you consider to exist in your case. When giving exceptional circumstances you must answer each of the questions asked.

25. In Section C, would a termination due to a material breach be considered a “no fault” termination because we brought the circumstances to the attention of the LSC and we suggested that our contract be terminated?

No. A termination for material breach is not considered an exercise of the LAA/LSC’s “no fault” termination rights. For further information see section 25.3 of the draft 2015 Own Client Crime Contract Standard Terms.

Supervisor Requirements

26. Are we able to use experience gained from working for my previous firm in order to meet the Supervisor requirements?

Yes. Experience need not have been gained with your current employer.

However, the LAA may under this procurement process or under any contract awarded require you to provide evidence of this experience.

27. The VHCC Supervisor Standard seems to be different from that specified for the 2015 Own Client Crime Contract. Will a VHCC Supervisor automatically meet the Crime Supervisor Standard?

In order to hold a 2015 Own Client Crime Contract the Applicant Organisation must meet all Supervisor requirements as set out in that Contract including the Crime Supervisor Standard. Individuals meeting other standards may not meet these requirements. More details on the Supervisor requirements are set out in paragraphs 2.1 to 2.23 of the draft 2015 Own Client Crime Contract Specification.

28. When does our Supervisor have to be in place? As I read the tender we would have to have someone in place at least 6 weeks prior to the commencement date (ie the 1st July 2015). Is that right? Or do we have to have the supervisor in place at the time of the application?

Criterion D1 for the Own Client Contract confirms that Applicant Organisations must Employ a Supervisor by the Service Commencement Date (1 July 2015).

However, before the LAA executes contracts it will verify that the conditions of award are satisfied. As set out at paragraph 7.3 of the IFA, the Applicant Organisation must confirm that it Employs a Supervisor that meets the Crime Supervisor Standard as part of the verification process.

Where verification is not received before the Service Commencement Date the LAA will not proceed with any contract award.

29. Can you provide a list of approved supervisory skills courses as per Paragraph 2.9b of the Specification?

The LAA do not hold a list of accepted Supervisor training courses. However, generally to meet the requirement, a course needs to cover the following key supervisory elements:

- Managing work (e.g. planning, organising and delegation)
- Effective communication and working relationships
- Performance Management and performance improvement
- Developing teams/individuals to deliver objectives

For individuals new to supervision we would expect the duration of the training to be at least 7 hours. Training need not be undertaken in one consecutive run, and may be spread over a period of time (sometimes as much as six to 12 months from the first to last day of training), giving opportunity to apply new skills in the intervening period(s).

30. Is it necessary for a firm, which employs a Supervisor who qualifies as a “Criminal Investigations, Criminal Proceedings and/or Associated Civil Work Supervisor” under Paragraph 2.14 of the 2015 Own Client Crime Contract Specification, and which wants to undertake “Appeals and Reviews” class of work, to employ a Supervisor who also qualifies under Paragraph 2.15?

i.e. Will it be necessary for such a firm to complete and submit 2 separate, “Supervisor Standard and Declaration Forms” – both a SUPP (CRI) and a SUPP (CRI-CCRC1)?

The Standard for a “Criminal Investigations, Criminal Proceedings and/or Associated Civil Work Supervisor” under Paragraph 2.14 of the draft 2015 Own Client Crime Contract Specification covers the requirements needed of a Supervisor for Appeals and Reviews work. If therefore you intend to carry out Appeals and Reviews work as part of the wider 2015 Own Client Crime Contract, and your Supervisor meets the standard of the “Criminal Investigations, Criminal Proceedings and/or Associated Civil Work Supervisor”, you do **not** need to employ separately a Supervisor who qualifies under paragraph 2.15, so do not need complete two separate Supervisor forms.

As set out at paragraph 2.15, in order to meet the requirements to be a Supervisor in the Appeals and Reviews Class where this is the **only** Contract Work you undertake you will need to employ a Supervisor meeting the standard set out at 2.15 and complete the SUPP (CRI-CCRC1) form.

Please note that, as set out on page 1 of the IFA, Applicant Organisations intending to deliver only Prison Law or Appeals and Reviews work will not be able to apply through this procurement process. They will need to respond to a separate procurement process likely to be open in late 2014/early 2015. Further details will be published later this year on our website.

31. Paragraph 2.2 of the Contract Specification appears on the face of it to specify which of the following paragraphs a Supervisor must meet – i.e. 2.2(a) – All Supervisor Standards in 2.9 to 2.13 and 2.2 (b) – either 2.14 or 2.15 or 2.16.

But Paragraph 2.2 makes no reference to Paragraph 2.4, which sets out a separate requirement that all supervisors must have undertaken 350 hours of direct casework (for a full time Supervisor) in the previous 12 months.

Moreover the Supervisor form SUPP (CRI) does not include any requirement to document compliance with the 350 hours in 12 months requirement.

Please clarify and explain.

As stated in 2.4 of the draft 2015 Own Client Crime Contract Specification, ALL supervisors must have undertaken 350 hours of direct casework in the previous 12 months unless they work part time (in which they must have worked 1,050 hours over the last five years).

An amended version of the Supervisor form has been published on our website at:
<http://www.justice.gov.uk/legal-aid/contracts-and-tenders/2015-own-client-crime-contract>

32. Question 9 of the previous FAQ refers to individuals passported onto CLAS (having qualified before CLAS was introduced). For these individuals, membership was confirmed from 02.01.2001.

**This membership expires currently on 31.12.2014.
No re-accreditation has ever occurred.**

Should such a Supervisor enter the 02.01.2001 date or N/A in answer to 3 (i)(b)?

If you have been passported onto CLAS, you should enter the date on which you were passported in response to question 3(i)(b). You should also indicate in this section of the form that you were passported onto CLAS.

33. When listing cases on our Supervisor Form, can we cite a case which started in the Magistrates Court and then moved to the Crown Court in meeting both the Magistrates Court and Crown Court requirements?

Yes. The same case can be used if work in both courts was carried out.

34. Does the ratio of 1 Supervisor to 4 fee earners mean that 4 fee earners is the maximum number that can be supervised? Is it ok to have ratios of 1:1, 1:2, 1:3 & 1:4 of Supervisors to fee earners?

Yes. As set out at section 2.3 of the IFA, the Applicant Organisation must commit to maintain a ratio of one full-time equivalent Supervisor to four Designated Fee Earners. More information on minimum Supervisor ratios is set out at section 2.21 to 2.23 of the draft 2015 Own Client Crime Contract Specification.

Questions about the 2015 Duty Provider Crime Contract

35. On page 6 of the “2015 Duty Provider Contract Additional Information” there is a reference to the “indicative [duty] contract value” – please can you advise what the indicative contract values cover and where they are published?

Information relating to indicative contract values will be published as part of the Duty Provider Contract procurement process. We anticipate that this process will open in July 2014.

Current information available on the 2015 Duty Provider Contract is published on our website at:

<http://www.justice.gov.uk/legal-aid/contracts-and-tenders/tenders/2015-crime-tender>

Other Tender/Contract requirements

36. In larger PLC organisations what is your policy regarding signing indemnities as directors will not sign personal indemnities and the owners i.e. shareholders may also not be willing to do so. What indemnity does the LAA seek from PLC companies?

The LAAs standard position is that it will require an indemnity from all organisations with limited liability to protect public funds as set out in the IFA. However, paragraph 2.16 of the IFA recognises that exceptionally, and at the LAA's discretion, a guarantee may be acceptable. All requests to accept a guarantee will be considered on their own facts. It will be for the Applicant Organisation to satisfy the LAA that the indemnity or guarantee adequately protect public funds.

37. Your specification for offices states that residential property may not be used as an office. Would this also preclude the use of a self-contained unit located beneath a residential property?

Requirements relating to an Office are set out at sections 2.32 to 2.35 of the draft 2015 Own Client Crime Contract Specification, and it is up to Applicant Organisations to ensure that their premises meet these requirements.

The draft Specification can be found on our website at:

<http://www.justice.gov.uk/legal-aid/contracts-and-tenders/2015-own-client-crime-contract>

Provided all these requirements are met a self-contained office unit located beneath a residential property could meet the Office definition.

38. Would a junior barrister instructed to represent a client at a Magistrates Court hearing but not as assigned counsel, be regarded as an agent thus requiring either that individual barrister or the set of chambers of which he/she is a member to hold a 2015 Own Client Contract?

As set out in the definitions section at Annex B of the IFA, an Agent is not an individual but another Own Client Contract holder you instruct. Barristers instructed to provide representation at court hearings do not fall within the definition of "Agent" – see Clause 3.2(c) of the Contract Standard Terms. The barrister, or their chambers, would not need to hold a 2015 Own Client Contract in order to act in this capacity.

A barrister instructed to represent a client at a Magistrates Court hearing but not as assigned counsel would be regarded as Unassigned Counsel for the purposes of the 2015 Own Client Contract (see the definitions under section 1, and sections 9.24 to 9.33 of the draft 2015 Own Client Crime Contract Specification, which is available on our website at:

<http://www.justice.gov.uk/legal-aid/contracts-and-tenders/2015-own-client-crime-contract>)

Such a barrister may also fall under the definition of Designated Fee Earner under section 2.24 to 2.29 of the draft Specification.

39. We are unable to find the Category Definitions 2015 on the MOJ Website. On the page:

“www.justice.gov.uk/legal-aid/contracts-and-tenders/2015-own-client-crime-contract”

It states:

“Draft versions of the contract documents that consist of 2015 Own Client Crime Contract and Category Definitions 2015 have been published below.” However the only Category Definitions on that page are the Category Definitions 2010.

Please direct us to the Category Definitions 2015.

As stated on that web page, the 2015 Category Definitions, along with some other documents referred to in the Contract will be added in due course. In the meantime, the current versions can be found via the links at the end of the webpage.

40. Are the timescales for submitting applications for registration with the SRA the same for Duty Provider Contracts and Own Client Contracts?

As set out at 2.3 of the IFA, Applicant Organisations applying for Own Client Contracts need to be authorised by Service Commencement Date (1 July 2015), and need confirm in their Tender that they will be so authorised. There is no further requirement to have submitted a completed application to SRA by a particular date for the purpose of this procurement process.

However, if an Applicant Organisation wishes to apply for a Duty Provider Contract in addition to the Own Client Contract then they would be required to meet the deadline for SRA authorisation set out within the Duty Provider Contract process. As set out on page 3 of our document “2015 Duty Provider Crime Contract Additional Information”, if an Applicant Organisation does not currently meet the authorisation requirement, it must have submitted a fully completed application for authorisation by the time it submits a Duty Provider Tender.

Our document “2015 Duty Provider Crime Contract Additional Information” is available on our website at:

<http://www.justice.gov.uk/legal-aid/contracts-and-tenders/tenders/2015-crime-tender>

41. Since 2010, all providers were required to be audited by the SQM Delivery Partnership, except a small number of firms (like us) who started as a new entity in 2010. Those firms were in the unique position of being audited by the LSC instead. We were awarded the SQM by the LSC in 2012.

Can we assume that this award of the SQM by the LAA (or LSC) is sufficient and that we do not need to re-apply for another SQM certificate, having already obtained one in 2012?

As set out at 2.3 of the IFA, **all** Applicant Organisations must hold a Relevant Quality Standard; either the Law Society’s Lexcel standard or the LAA’s Specialist Quality Mark (as audited by the SQM Delivery Partnership). The table at 2.10 of the IFA sets out

requirements for Applicant Organisations in various circumstances, including where an organisation holds a previous SQM not audited by the SQM Delivery Partnership.

42. When will preferential loans be open for application?

Information on transitional support arrangements can be found on the Justice website at: <http://legalaidtraining.justice.gov.uk/course/category.php?id=130>

43. Does the definition of a "matter" mean that all work from the Police Station through to the conclusion of any Crown Court case is defined as one matter?

No, Matter as defined in section 1.1 of the draft 2015 Own Client Crime Contract Standard Terms would not include proceedings work. "Matter" covers work at the police station, appeals and reviews and Prison Law and does not include work that follows on from a client being charged. Details of when a Matter concludes can be found in the draft 2015 Own Client Contract Specification, section 4.58.

Mergers/Status Changes/Structures Etc

44. Paragraphs 1.17 to 1.22 of the IFA set out circumstances where we may wish to submit two Own Client Contract Tenders – one for our organisation as currently constituted and one for the organisation we intend to become after a merger. How do we make this second application for an own client contract?

Should you wish to submit multiple Tenders to this procurement opportunity you will need to register on the eTendering system in each of your proposed configurations and submit a separate Tender for each.

Guidance on how to register on the eTendering system can be found in the 'Technical Support and Guidance' link on the eTendering portal home page: www.legalaid.bravosolution.co.uk

45. Paragraph 1.17 to 1.22 refers to circumstances where we may wish to change the structure of the organisation. Is there a difference between merging with other organisations to create one organisation to deliver the Duty Provider Contract, and delivering the Duty Provider Contract with Delivery Partners? If there is a difference, how many Tenders for Own Client Contracts and for Duty Provider Contracts do we need to submit? And what happens if one of our Tenders is unsuccessful?

There is a difference between:

- a) a Delivery Partnership; and
- b) creation of a new legal entity (via merger or otherwise).

Delivering services with Delivery Partners

Applicant Organisations will be able to tender for a Duty Provider Contract with Delivery Partners. Information on how this would work is set out at pages 6 to 9 of our document "2015 Duty Provider Crime Contract Additional Information" which is available on our website at:

It is not necessary to create a new legal entity or merge in order to tender to deliver services with Delivery Partners. As such, the rules set out at 1.17 to 1.22 of the IFA about submitting multiple tenders would not apply.

However, all intended members of a Delivery Partnership must submit an Own Client Contract Tender. Applicant Organisations must themselves hold an Own Client Contract in order to be eligible to be Delivery Partners under the Duty Provider Contract.

Creating new legal entities via mergers or otherwise

Alternatively, organisations may wish to create a new single legal entity to apply for a Duty Provider Contract. This may involve setting up a joint venture, merger of existing organisations or other activity.

In this situation, if the new organisation had already been set up, it should submit one Tender for a 2015 Own Client Crime Contract as the new organisation.

If the new entity has not been created before the deadline for submission of the Own Client Contract Tender, organisations may choose to submit Tenders as they are currently constituted and as they intend to be – see paragraph 1.20 of the IFA and sections 3.5 to 3.7 of Annex C of the IFA for examples of how organisations may choose to tender.

If several new organisations are being created through mergers, perhaps in different locations, each proposed organisation can submit a Tender. See question 5 above for further information.

Information on what will happen to successful/unsuccessful bids in these circumstances is set out in the Annex C of the IFA at questions 3.6 and 3.7.

46. Where we intend to create a new legal entity or organisation should we give information in the Tender as from our current firm or the new entity?

Sections 1.17 to 1.22 of the IFA set out instances where Applicant Organisations may be planning to create a new organisation and so may submit multiple Tenders. Where you are submitting a Tender as an organisation which does not yet exist in the form in which it would deliver the Contract, you should answer questions from the point of view of the organisation which would deliver the Contract. For example, if you are currently an LLP but intend to change your status to a Limited Company in June 2014, you should indicate that you are a “Limited Company” in response to the relevant question in Section A of the PQQ.

If the question asks for information which is not available because the entity has not yet been set up, such as Company Number, you should answer N/A.

47. My firm, which holds the SQM, is intending to merge with another firm, which also holds the SQM, in order to deliver the Contract. Do we need to apply again for the SQM as the new organisation, or can we carry over our existing SQM from our predecessor firms? Would this be different if only one predecessor held the SQM rather than both? Would this be different if Lexcel were the Relevant Quality Standard?

As set out at 2.3 of the IFA, **all** Applicant Organisations must hold a Relevant Quality Standard; either the Law Society's Lexcel standard or the LAA's Specialist Quality Mark (as audited by the SQM Delivery Partnership). Applicant Organisations should contact the Law Society or SQM Delivery Partnership for advice on applying for the Relevant Quality Standard as a new legal entity following a merger.

48. My firm is authorised by the SRA and is intending to merge with another firm, which is also authorised, in order to deliver the Contract. Do we need to apply again for SRA authorisation as the new organisation, or can we carry over our existing SRA Authorisation from our predecessor firms? If we have to apply again, what is the deadline?

As set out at 2.3 of the IFA Applicant Organisations must have been granted authorisation by a relevant legal sector regulator (currently the SRA). Applicant Organisations should contact the SRA for advice on applying for authorisation as a new legal entity following a merger.

Guidance on SRA applications is available from the SRA's website:
<http://www.sra.org.uk/solicitors/code-of-conduct/guidance/guidance/Criminal-Legal-Aid---considerations-when-applying-for-a-contract.page>

49. We do not wish to change our structure by merging, but wish to change our type of entity (as listed at question A.8.i) such as from LLP to Limited Company. We have several questions about this.

a) Do paragraphs 1.17 to 1.22 of the IFA, relating to multiple tenders and new organisations apply to us?

No. As set out at question 4 above, if Applicant Organisations do not intend to merge or change their organisational structure other than to change their type of entity there is no need to submit more than one Tender.

b) Questions 1.1 and 1.3 of the "Common Questions" in Annex C of the IFA suggest that if an organisation changes its name or its legal status through merger or novation, then we have to re-register on the eTendering system. Does this apply if the only change is a change in type of entity, ie, from LLP to Limited Company, or Partnership to LLP? Do we still need to re-register if this is the only change and all other circumstances (such as Key Personnel, name, address etc) remain the same?

In these circumstances, the Applicant Organisation would not need to re-register on the eTendering system. Where the change is anything more fundamental than a change of type of entity, the Applicant Organisation will need to re-register on the eTendering system.

c) What happens if we do not yet know whether the change will take place – will it be a problem if we intend to bid for a Duty Contract and have by that time changed from an LLP to a Limited Company? Will we be considered as the same legal entity?

As set out at paragraph 8.33 of the IFA, Applicant Organisations should inform the LAA of any material changes to tender information as soon as possible via the eTendering system message board. This would include a change in the type of organisation since the date of the Own Client Contract Tender.

50. Firms A, B and C bid for Own Client Contracts in a procurement area. Directors from each of the firms also set up a new legal entity, D, which bids for an Own Client Contract in the same procurement area. Firm D then bids for Duty Provider Contract, but intends to carry out duty work exclusively, whilst Firms A, B and C intend to carry out Own Client Work exclusively. Would this situation be permitted?

Please see the response to Question 3.7 in Annex C of the IFA. This sets out that provided bidding rules around multiple bids in a single Procurement Area are adhered to, Applicant Organisations will be permitted to continue with their Own Client Contract awards as a number of different entities.

Further information will be included in the Duty Provider Contract Invitation To Tender (which we anticipate publishing in July 2014).

51. When I initially registered as a user on the Bravo eTendering system, the options list for “Organisation Legal Structure” includes the option “Consortium”. When I went through into the PQQ for 2015 Own Client Crime Contracts, there is no option to indicate “consortium” in the questions about organisation details in Section A of the PQQ. Why is this?

The initial user registration details on the Bravo eTendering system are generic and relate solely to registration as a user of the Bravo eTendering software.

They do not relate to the requirements of specific tenders, and the only information we will use about the type of entity will be that provided by Applicant Organisations in response to question A.8.i in the relevant PQQ.

Please note that the term “Consortium” is not a term used in this procurement process. Information on structuring bids is set out at 1.17 to 1.22 of the IFA, as well as this FAQ. Further information on Delivery Partnerships is set out at pages 6 to 9 of our document “2015 Duty Provider Crime Contract Additional Information” which is available on our website at:
<http://www.justice.gov.uk/legal-aid/contracts-and-tenders/tenders/2015-crime-tender>