

## **Procurement Process for HPCDS Services from October 2018 Frequently Asked Questions**

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

<https://www.gov.uk/government/publications/civil-2018-contracts-tender>

The deadline for questions about the IFA or the tender was **23.59 on 7 November 2017** (note this is referred to as the “End date for supplier clarification messages”) on the e-Tendering system. We are therefore unable to answer questions received after that deadline.

Questions that we consider to be of 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.

### **Technical questions on how to use the e-Tendering system**

There is a helpdesk to provide technical support to Applicants using the e-Tendering 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: [help@bravosolution.co.uk](mailto:help@bravosolution.co.uk) . Alternatively, the telephone number for the helpdesk is 0800 069 8630 (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 5pm on 4 December 2017.**

## **Section 1: General questions**

**1.1 In Annex E of the IFA (Quality Award Criteria) it sets out question N1 with the submission requirement of a Staff Organogram I cannot see where I can access this in the HPCDS Scheme Area ITTs in the e-Tendering system.**

A. Question N.1 is the first question in the Technical Envelope for each Scheme Area ITT. It requires the Applicant to submit a Staff Organogram. The LAA has not provided a template for this submission requirement; Applicants should use their own template. More information on the Staff Organogram, including the minimum requirements in relation to the level of information to be provided, can be found at paragraph 3.20 and Annex E of the IFA.

**1.2 Where can I find the HPCDS Scheme Area Guides?**

**1.2 I'd like specific data regarding Clerkenwell and Shoreditch County court that was referred to in the market engagement events. Where can I find that information?**

A. Scheme Area Guides can be found at:  
<https://www.gov.uk/government/publications/civil-2018-tender-hpcds-scheme-area-guides>

**1.3 If an Applicant bids for HPCDS contracts in multiple Scheme Areas and is successful, can they accept contracts in only some of the Scheme Areas where they have been successful?**

**1.3 Can I amend my bid after the tender deadline?**

A As detailed at paragraphs 2.15 and 2.16 of the IFA, Applicants may respond to the ITT(s) to deliver the Contract Work for any number of Scheme Areas. However, an Applicant should ensure it can deliver all the Scheme Areas bid for so that its entire Tender is capable of concurrent delivery. Where it submits a response to more than one HPCDS Scheme Area ITT, it is warranting that it will be able to deliver concurrently Contract Work in all of those Scheme Areas if it is successful.

Paragraph 1.21 sets out that “Where an Applicant is successful in multiple Scheme Areas, they will be awarded a single HPCDS Contract incorporating a separate Schedule for each Scheme Area.” Applicants may only accept or reject the entire HPCDS Contract, including all Scheme Areas awarded. It is not possible for Applicants bidding in multiple Scheme Areas to select from the Scheme Areas which are awarded by accepting some and rejecting others.

As detailed at paragraph 8.5 The LAA will not consider any requests by the Applicant to amend or submit the Tender after the Deadline

## **Section 2: Staffing requirements**

**2.1 We are looking to bid using agents. We will have to agree the bid price with the agents. What is there to stop the agents from then, unknown to us, putting in their**

**own bid and undercutting us on price? Is there provision to stop this or do we for example have to get them to give us an undertaking not to do this?**

- A Applicants will be responsible for managing commercial arrangements with potential Agents. Applicants must comply with the rules of the IFA, including paragraphs 2.8-2.11 (rules on Connected Entities) and 8.34 (collusion). However, there is no obligation on Applicants to share their final Case Fees with their proposed Agents.

**2.2 Can the same person in principle hold all relevant roles i.e. a Caseworker, Supervisor, Authorised Litigator and HPCDS Manager.**

- A: Yes, as long as the individual meets the requirements of the HPCDS Contract for each individual role.

Paragraph 2.10 of the 2018 Standard Civil Contract Specification states that a sole principal may be a Supervisor. Although an individual may in principle hold all relevant roles, such an individual may not self-supervise their own work unless the individual is a sole principal. If the individual is not a sole principal, any work they do in their capacity as a Caseworker must be supervised by another Supervisor.

**2.3 Can an experienced solicitor who a) has conducted 12 hours a week housing work and carried out 450 hours over the last 3 years, and b) has enough experience to complete fully a welfare benefit law and public law supervisor declaration form be a Part Time Equivalent supervisor in welfare benefits and public law and also be a caseworker on a HPCDS?**

- A. Applicants should refer to the Face to Face ITT IFA and the FAQ questions for further information on supervision of contract work on a part time basis under the 2018 Standard Civil Contract.

If the individual referred to is the sole supervisor in the Welfare Benefits and Public Law Categories, they cannot also conduct HPCDS Contract Work as a Caseworker.

Applicants are not permitted to claim that an individual member of staff will work on more than a full time basis (35 hours across a 5 day working week) even if they work more than 35 hours per week.

If the individual is not the Applicant's sole Supervisor in the Welfare Benefits and Public Law Categories, it may be possible for the individual to perform all of those roles as long as:

- 1) the individual concerned meets the requirements of all roles and works no more than 35 hours a week across 5 days; and
- 2) the Applicant meets the minimum supervision requirements of the Welfare Benefits and Public Law Categories by employing individuals to act as supervisors in those categories for the minimum period of time required.

Applicants should refer the Paragraph 2.10 of the Standard Civil Contract Specification, Paragraph 12.24 of the Welfare Benefits Category Specific Rules and Paragraph 14.6 of the Public Law Category Specific Rules.

**2.4 Question 2 of the Selection Criteria asks us the percentage of Caseworkers that will deliver the Contract Work that we currently have in place as opposed to vacancies to fill. Should Agents that we intend to use be included in this calculation?**

- A. The question requires the Applicant to state the percentage of Caseworkers that will deliver the Contract Work who are either current employees or with whom you have a Signed Engagement Agreement. This does not include Agents.

However, if an Applicant is intending to deliver Contract Work using Caseworkers who are not direct employees, but with whom they have a formalised agreement, they should treat such individuals on the same basis as Caseworkers directly employed. Such Caseworkers should be included within the calculation.

**2.5 Why will Applicants score more points in the Selection Criteria if they currently employ a Supervisor who will deliver the Contract Work than if they have a Signed Engagement Agreement for someone who will be available at Contract Start Date?**

- A In the Selection Criteria more points are available to Applicants who currently employ a Supervisor who will deliver the Contract Work as having a current staff member who is already in place at the organisation provides the LAA with a higher level of confidence that the Applicant will be ready to deliver the Contract Work, when compared with an Applicant which needs to recruit or has a Signed Employment Agreement in place with any such individual.

**2.6 Paragraph 1.51 of the IFA refers to abnormally low case fees. Can you confirm what the LAA would consider an abnormally low price to be?**

**Where an Applicant has submitted a case fee that LAA considers abnormally low, is there a specific format that Applicants will be required to use in providing an explanation of how the price was established?**

- A We have not included a minimum price as part of the procurement process for HPCDS Contracts. However, in the event that abnormally low tenders are received the LAA will act in accordance with Regulation 69 of the Public Contracts Regulations 2015 and will require Applicants to explain how their price bid has been established. The format in which Applicants will be required to provide any such explanation will be provided to those Applicants affected.

**2.7 For the Face to Face tender, a 1 FTE Supervisor to 4 FTE Caseworkers ratio is specified. Does this ratio also apply to the HPCDS tender? Specifically, does this ratio apply when we are managing Agents to deliver on our behalf?**

- A The 2018 Standard Civil Contract Standard Terms and Specification form part of the HPCDS Contract, as is made clear in the Contract for Signature of the HPCDS Contract.

Providers will be required to comply with the Supervisor to Caseworker ratio as set out at Paragraph 2.26 of the 2018 Standard Civil Contract Specification.

Paragraph 1.25 of the HPCDS Specification states that any Agent the Provider instructs must hold or be directly employed by an organisation which holds a 2018 Standard Civil

Contract in the Housing and Debt Categories of Law. Any such Agents (or the organisation which employs them) will therefore be contractually required to comply with Paragraph 2.26 of the 2018 Standard Civil Contract Specification.

Providers are also reminded of their obligations under Clause 3 of the Standard Terms and Paragraphs 1.23, 1.25 and 1.26 of the HPCDS Specification. Those provisions state that the Provider is responsible for ensuring that the work of Agents is properly and effectively supervised in accordance with the terms of the HPCDS Contract. Supervision of Agents is, in all respects, the same as supervision of employees in accordance with the HPCDS Contract.

**2.8 Where an area has more than one Court to be serviced under the Contract would duty days be on every day for each Court or would they be staggered? For example, where an area has 5 Courts, Court A on Mondays, Court B on Tuesdays, Court C on Wednesdays, Court D on Thursdays and Court E on Fridays?**

- A. Housing possession listings are set by the individual courts. Historical information for each Scheme Area including information on listing days is included in Scheme Area Guides which are available from: <https://www.gov.uk/government/publications/civil-2018-tender-hpcds-scheme-area-guides>.

**2.9 Can HPCDS Contract Work be administered from an office other than the office located within the scheme area?**

- A. There is no minimum requirement about where an Applicant's Office must be for the administration of HPCDS Contract Work.

However, this is distinct from HPCDS Contract Work where the Selection Criteria states that preference will be given to Applicants which hold a 2018 Standard Civil Contract to deliver Housing and Debt Contract Work with closer proximity to the relevant Scheme Area. An Applicant must answer the Selection Criteria on the basis of the Office from which they intend to administrate the Scheme. For example if an Applicant has an Office in the relevant Scheme Area but intends to administer this Scheme from an Office outside the Scheme Area, they would need to answer the Selection Criteria questions based on their Office from which they intend to deliver the Scheme (i.e. their Office outside the Scheme Area).

Paragraph 1.17 of the HPCDS Specification states that Providers must nominate a HPCDS Manager who is responsible for overall delivery of Contract Work who must be based at the Office to which the Schedule applies. Where Applicants bid in more than one Scheme Area, they must nominate a HPCDS Manager in each Scheme Area.

The fourth and fifth minimum requirements at paragraph 7.53 of the IFA specify that successful Applicants must, from the Contract Start Date, employ or have a Signed Engagement Agreement to employ a Housing and Debt Supervisor and an Authorised Litigator who must be based at and regularly working in an Office located within the applicable Scheme Area. These provisions are also set out at 1.16 of the HPCDS Specification.

For the purposes of London only, paragraph 1.43 of the IFA is clear that an Applicant bidding in a Scheme Area with Supervisors and Caseworkers who are based in an office which is in a Housing and Debt Procurement Area adjacent to the Scheme Area, will be treated as meeting the minimum requirements.

**2.10 Where an Applicant is bidding for multiple Scheme Areas, can a fee earner be listed as working in more than one of those Scheme Areas?**

- A. Yes. However, the Applicant's tender must be capable of concurrent delivery. For example, an individual cannot be listed as working full time in more than one Scheme Area bid submitted by the Applicant.

**2.11 Is it possible to use a named individual barrister, who is currently practising from Chambers, as an agent or caseworker to help staff the HPCDS contract? There will be a written agreement between us and the barrister to perform contract work for us.**

- A Please refer to paragraphs 1.31 to 1.38 of the IFA and to 1.21 to 1.26 of the HPCDS Contract Specification for the requirements of the contractual relationship between Providers and the Caseworkers and Agents that may be used to perform Contract Work.

Caseworkers may be directly employed by the Provider, or have a Signed Engagement Agreement to be employed by the Provider by the Contract Start Date, or they may have a written agreement in place to perform Contract Work for the Provider.

Where the Caseworker is not directly employed, but has a written agreement in place with the Provider, the Caseworker must hold or be directly employed by an organisation which holds a 2018 Standard Civil Contract in the Housing and Debt Categories of Law.

Any Agents used must also hold, or be directly employed by an organisation which holds, a 2018 Standard Civil Contract in the Housing and Debt Categories of Law.

An individual must also be "appropriately qualified" in accordance with the requirements set out in paragraph 1.21 of the HPCDS Contract Specification, by having completed at least 450 hours of work in the Housing and Debt Categories of Law at any time over a period of up to 3 years immediately preceding the Contract Start Date.

### **Section 3: Financial Assessment**

**3.1 The Company ('the Company') commenced trading on 01/12/12 and had accounts prepared for the 13 months ending 31/12/13 and subsequent 12 months ending 31/12/14 and 31/12/15. On 01/12/16 the Company acquired the assets of another company ('Acquired Company') which was a partnership. The most recent Company Accounts which have been prepared are for the 11 months ending 30/11/16. In these circumstances:**

- a) if the Company is not deemed to be an Established Business, do you require a) a statement of the turnover, profit & loss accounts and cashflow for a) the Company in respect of the 11 months ending 30.11.16, b) copies of the accounts for the Company in respect of the preceding sub-paragraph together with the Acquired Company accounts for the 8 months ending 30.11.16 or c) any other accounts for any other period(s)? Please clarify.
- b) if the Company is deemed to be an Established Business, do you require a) a copy of the Company accounts for the 12 months ending 31.12.15 and 11 months ending 30.11.16 or b) copies of those accounts suggested in the preceding sub-paragraph together with the Acquired Company accounts for

**the 12 months ending 31.03.16 and 8 months ending 30.11.16 or c) any other accounts for any other period(s)? Please clarify.**

- c) in the event that the Company is not deemed to be an Established Business (despite having commenced trade on 01/12/12), do you require a completed monthly cashflow forecast a) for the 12 month period ending 30/11/17 or b) for the 12 month period ending 30.11.18 or c) for both (or any other) periods? Please clarify.**
- d) prior to the acquisition of the Acquired Company by the Company, there was one Director who was a sole shareholder. This has now increased to 4 Directors who are all shareholders, although the original shareholder owns the largest shareholding. In these circumstances does the Company meet the criteria for being an Established Business?**
- e) is it correct to assume that the Company therefore has the requisite 2 years' completed accounts for an Established Business?**

- A. It is for each Applicant to determine whether it is an Established Business or an Other Business. Applicants must complete the Financial Assessment Form and provide the Supporting Financial Documentation based on the business type.

Applicants should refer to paragraph 4.11 of the IFA to determine whether they are classified as an Established or an Other Business. Paragraph 4.27 of the IFA explains the Supporting Financial Documentation which Applicants are required to provide. This is dependent upon whether the Applicant is an Established Business or an Other Business.

Applicants requiring a Capacity Assessment must also submit additional Supporting Financial Documentation as detailed in paragraphs 4.30 and 4.36 of the IFA.

The deadline for submitting Supporting Financial Documentation depends on whether Applicants require a Capacity Assessment.

If Applicants require a Capacity Assessment, paragraph 4.29 of the IFA requires the Supporting Financial Documentation to be submitted as an upload with their HPCDS Applicant ITT Response.

If Applicants do not require a Capacity Assessment, paragraph 4.35 of the IFA states that they may choose to wait until they know whether they have been shortlisted to Stage 4 of the Evaluation Process. If Applicants choose to do this they must submit the Supporting Financial Documentation within 15 days from the date of notification of the outcome of the shortlisting process.

**3.2 My firm has been 'established' for nearly 14 years but as required by the rules my accountant has produced for all of the last 14 years unaudited accounts. Can you confirm if my firm is to be considered an Established or Other business?**

- A. To be regarded as an established business the financial statements must have been audited or certified by an independent accountant. Financial statements not subjected to independent audit or certification would not meet the criteria in paragraph 4.11 of the IFA to be an established business.

Applicants should also have regard to the requirements set out at Clauses 4.1 – 4.4 of the Standard Terms which Providers must meet in relation to maintenance of accounts and financial disclosure.

**3.3 Looking at profit & loss there no definition of Admin & Governance expenses. Do we need to split out the salaries for admin staff as compared to fee earning staff?**

A All staff salaries should be included as part of the 'wages' information provided in 'Tab 2 – P&L'. Admin and Governance expenses should include operating costs not covered by other fields. Applicants should decide how best to apportion their costs in producing their profit and loss accounts.

**3.4 Would the LAA prefer a Business Plan for the whole organisation, or just for the legal services part of the organisation?**

A The LAA has not stipulated the basis on which a Business Plan must be produced. Annex H of the HPCDS IFA details the minimum information required in a Business Plan. Applicants are reminded that a Business Plan should collate and clarify the Applicant's business proposal, what it wants to achieve, how it wants to do it and a plan for the future of the organisation. It must contain sufficient information to allow a financial professional to assess the viability of its business and/or any business expansion relating to the services being tendered for.

**3.5 In the forecast profit and loss account tab it is possible for other income/expenses to be a negative value although this is allowed in the profit and loss tab. Is this correct?**

A. Please enter absolute values into either Tab 2 or Tab 4 as the background formulas are set to make the correct calculation based on whether it is expenditure or income.

**3.6 In the balance sheet the instructions say to enter current year end in column C16. This is greyed out after I entered previous year end in Column C16 (31/3/16) - how do I do as instructed to enter 31/3/17?**

A. In the 'Tab 1- Balance Sheet', the instructions require the prior financial year end to be entered in C16, the most recent year end is calculated based on the entry on this sheet in C16, and the months entered on the 'Instructions' tab in F16. In your example, please enter 31/03/2016 in C16 on 'Tab 1- Balance Sheet' and 12 as response to 'For your most recent year of trading, what is the length (in months) of this particular accounting period?' In 'Instructions' tab.

**3.7 Balance sheet column C26 asks for work in progress. We do have a value of work in progress under legal aid cases but this is NOT shown in our annual accounts. Do we enter a figure here or does it have to match our annual accounts?**

A This tab should reflect your annual accounts, it doesn't mean specifically legal aid work in value. However, if you do not disclose work in progress as a separate line in your balance sheet then please leave blank.



**3.8 If we do not enter a figure in C26 of the balance sheet will this affect our RAG rating?**

- A The RAG rating is based on the financial information presented overall. Not having any specific work in progress balance would not make an impact.