

## **Supplemental Procurement Process for Civil Legal Aid Services in the Discrimination Category Frequently Asked Questions**

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:

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

The deadline for questions about the IFA or the tender was **23.59 on 10 May 2018** (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.

This FAQ document answers the questions received up to 23.59 on 10 May 2018.

### **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 1 June 2018.**

Q1.1 How will you assess costs on cases of less than 900 minutes?

- A. Whilst all cases of 900 minutes or greater will automatically be subject to assessment prior to payment, the LAA will also undertake a range of regular assurance exercises across all work-types for each Provider to ensure that Case lengths and charges are appropriate and in accordance with the requirements of the Contract.**

Q1.2 Is it correct that it is not mandatory to have an SQM supervisor or to have one recruited ready to start if a contract award is made. Yes/No?

Is it simply a case that if you do not have the above then you score fewer points i.e. zero for this question. Yes/No?

If yes to both then, if there is only one bid, will that bidder be awarded a contract even though they do not have a supervisor and have not recruited one ready to start?

- A. It is a minimum requirement that Applicants must employ at least one Full-Time Equivalent Supervisor who meets the Supervisor Standard in the Discrimination Category of Law. This minimum requirement must be fulfilled no later than four weeks prior to 1 September 2018 (Service Commencement Date). Supervisor requirements must continue to be met for the duration of the Contract in accordance with the Contract terms.**

**When evaluating an Applicant's response to Selection Criterion 3 in the Discrimination ITT, preference is given to Applicants who can evidence that they currently employ (or have a Signed Engagement Agreement to employ) at least one Full-Time Equivalent Supervisor who meets the Supervisor Standard in the Discrimination Category of Law. Applicants who do not currently meet the requirement will achieve a score of zero for that Selection Criterion.**

Q1.3 Do the LAA keep a record of the number of complaints made in relation to the current CLA contract? (The contract is low value and the impact of complaints on its viability is something that bidders need to know in our view.)

Will these details be made available to potential bidders?

- A. The CLA Contract requires providers to record complaints. This information is reviewed with individual providers as part of ongoing contract management activity and is collated periodically by the LAA to inform an internal high-level report to assess the quality of the service being provided overall by the CLA Specialist service.**

**The LAA does not routinely publish this complaint data within tender documentation as the volumes and nature received is specific to each individual provider.**

Q1.4 The current provider is not allowed to bid. Does this mean that they will continue to be paid what they were being paid under the old/existing contract? Yes/No?

If no this seems to have deprived them of the opportunity to bid at the maximum price (if they are currently paid less than this). Do you agree Yes/No?

If no and they are to be paid a higher rate, were the other existing providers given this option?

**A. The LAA has extended the current CLA Discrimination contract held by one current provider. The extension is based on the provider's existing commercial terms. All current providers were offered an extension to their current contract based on this same basis and each therefore made a commercial decision about whether to accept our offer.**

Q1.5 Is it compulsory under the existing contracts and new contracts for providers to have insurance to litigate or is it enough to have insurance to cover pre-litigation advice?

If it is compulsory to have insurance for litigation, what are the sanctions/consequences of not having the same?

**A. Under Paragraph 7.8 of the Standard Terms it states, as a minimum, Providers must have professional indemnity insurance which provides at least the cover required as specified by any Relevant Professional Body from time to time. This aligns with Providers' professional obligations under the SRA Code of Conduct which requires organisations to have appropriate cover given the nature of their current and past practice taking into account potential levels of claim by their clients and others and any alternative arrangements they or their client may make. Any Applicant who is unclear on the level of professional indemnity insurance required, taking into account the range of work they will be required to carry out under our Contract, is advised to contact the SRA or Relevant Professional Body for further advice. If a Provider fails to comply with Paragraph 7.8 of the Standard Terms this may represent a material breach of the Contract.**

Q1.6 The contract may be as low as £93,000. Have the LAA factored in full-time salaries when considering the viability of the contract, bearing in mind TUPE might apply?

**A. It is possible that TUPE could apply so as to result in the transfer of some or all of the contracts of employment from current to new providers. It is each Applicant's responsibility to form their own view as to whether or not TUPE applies, and if so, the financial implications for their Tender. To the extent that there is likely to be one, the impact of any TUPE transfer must be factored into the price submitted by the Applicant.**

**As set out in paragraph 5.18 of the IFA, the current Supplemental CLA Procurement Process is independent of any other procurement process that has been run by the LAA. Applicants who wished to obtain TUPE information for the current CLA tender had until the deadline of 23.59 on 10 May 2018 to submit a signed confidentiality agreement to the LAA and Applicants who submitted this document by the deadline have received the information.**

Q1.7 The value of the contract is uncertain as it is unclear how many new providers the work will be shared with. It is impossible therefore to decide how many staff are needed until this is known – which will be when an offer is made.

If an offer of a contract is made are there any consequences of not accepting it, or can the offer be declined?

**A. Whilst paragraph 5.16 of the IFA requires Applicants to keep their Tenders valid and capable of acceptance by the LAA up to the Contract Start Date, the LAA recognises the issues Applicants may face should fewer than four contracts be awarded through this procurement process. Accordingly, the LAA will vary this requirement to permit Applicants to withdraw their Tenders solely in circumstances where fewer than four contracts are to be awarded. To withdraw a Tender in these circumstances, the Applicant must give notice of their withdrawal in writing prior to end of the standstill period provided for in their contract award notification letter.**

Q1.8 In Annex 1 (contract specification) there is the following term:

“7.11. Pursuant to Paragraph 7.10:

(a) we or the Director may reject any evidence you provide to us which is not submitted in the form we or the Director require;

(b) where we or the Director request copies of original documentation, you must make a copy of the original documentation;

(c) where we ask you to obtain a declaration from your Client we will require you to retain a copy of the original declaration and Client signature on your file. We may request the original signed declaration at any time during the Contract Period and at any time within six years after the Contract ends;

(d) you must keep original copies of any evidence you could be reasonably expected to retain as evidence of work conducted on the Case. We may request the original evidence at any time during the Contract Period and at any time within six years after the Contract ends; and

(e) We will use the website to notify you of any exceptions to the process, including any alternative methods of submitting information to us. “

This states original evidence must be maintained. However, in other circumstances retention is permitted by the LAA by electronic means eg scanning documents to file. This includes retention of scanned Legal Help forms.

Is electronic storage permitted under this clause 7.11?

**A. Electronic storage of all documents is permitted under this contract as long as Providers comply with the requirements under Section 8 of the Standard Terms and, in particular, clause 8.10. Clause 8.10 currently states that: “*in respect of Contract Work files which you hold electronically, you must ensure that such electronic files contain an accurate and complete record of all matters which have been included had such file been a paper file, including:***

**(a) ensuring that documents are held in pdf format; and**

- (b) *in relation to any paper documents which you save in electronic format for storage, having a process in place (and you must comply with such process) for ensuring that electronic copies are accurate copies of the corresponding paper document.***

**The LAA is currently considering minor amendments to the above clause to help provide further clarification on its requirements in relation to document retention and for consistency with the premise as stated above – that electronic storage of all documents is permitted under the contract so long as Providers comply with the associated contract requirements.**