

Procurement Process for Face to Face Contracts from September 2018 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-legal-advice-2018-contract>

The deadline for questions about the IFA or the tender was **23.59 19 October** (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 interim FAQ document incorporates questions received up to 1pm on 6 October 2017. A final FAQ document, which will incorporate all questions that we consider to be of interest which are received by the above deadline (including those published in this interim document), will be published in the week commencing 30 October.

Questions with similar themes have been grouped together within this FAQ document and the answer below the grouped questions applies to all such grouped questions.

Technical Questions on how to use the e-Tendering system

There is a Helpdesk to provide technical support to Applicant Organisations 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 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 10 November 2017.

Section 1: General questions

Q.1.1 We have 2 offices in the same Procurement Area. Are we able to apply for two contracts?

A. As set out at paragraph 1.21 of the IFA: "Applicants may only tender for and, if successful, be party to a single Face to Face Contract."

However, where Contract Work is to be delivered from individual Offices, Applicants are able to submit an Individual Bid for each Office in each Category of Law it is tendering to deliver. Where successful, each Office would then be issued its own Schedule which would detail the Contract Work and volume of Matter Starts which each Office is authorised to conduct.

Q.1.2 What relevance will an Advanced Caseworker have on the Immigration and Asylum tender? Will an Applicant with an Advanced Caseworker have an advantage or first preference to Contract Work?

A. No, there is no advantage or preference given to Applicants who employ an Advanced Caseworker in respect of the assessment of tenders.

The requirement to employ an IAAS accredited Advanced Caseworker applies to Applicants submitting an Individual Bid in Lot 3 or above Lot 3 in the Immigration and Asylum Category.

Further, where an Applicant wishes to tender to join Detained Duty Advice Surgery Rotas at IRCs and/or Detained Asylum Casework Rotas at IRCs, it must submit at least one Lot 3 Individual Bid and therefore must employ an FTE who is an IAAS accredited Advanced Caseworker at the Office related to the Individual Bid by the Contract Start Date.

Q.1.3 We have 2 partners who are bound by existing indemnity forms under the current Civil Contracts. However, by the time of the 2018 Civil Contracts start they will no longer be Partners at the firm. Therefore, is it acceptable for them not to sign the new indemnity form?

A. Applicants that are required to do so must provide a signed personal guarantee and indemnity form which must be signed by those individuals who are the ultimate owners, controllers and senior managers of the Applicant as at the Contract Start Date.

Paragraphs 7.11 and 7.12 of the IFA set out when a personal guarantee and indemnity form is required and who must sign it.

Section 2: Office requirements

Q.2.1. The definition of permanent office mentions “shared offices”. Does that imply that a serviced office is acceptable that is open all the time and messages can be taken or does it have to be manned by the organisations staff?

“Across all categories we intend to introduce greater flexibility by allowing remote working arrangements within the face to face contract, such as the delivery of advice via telephone, email and/or video conferencing where appropriate.”

How does this fit with the above?

Q2.1. We understand that the 2018 contract specification encompasses more flexibility in allowing remote working arrangements such as delivery of advice by email, telephone or video conferencing where appropriate.

In that context would the definition of permanent presence in a procurement area allow for services and face-to- face advice being provided through a serviced office arrangement on the basis that the office was available and open to callers for a minimum of 7 hours per day Monday to Friday and advice could either be given over the telephone or video conference or on appointment and there was a separate room or space where clients could be seen confidentially?

A. The requirements that an Applicant’s Office must meet, for both Permanent and Part-Time Presences, are set out at paragraphs 2.33 – 2.37 of the 2018 Standard Civil Contract Specification. Those provisions set out the legal requirements, facilities and opening hours that a provider’s Office must meet.

The Contract does not exclude the use of a serviced office facility provided that the requirements of the Contract are still met and, in particular, that face to face legal advice is available to be delivered from such an office each working day.

In respect of providing more flexibility in allowing remote working arrangements, Providers will have greater control on how they meet client demand. Paragraph 3.17 of the Contract Specification sets out:

“Unless we provide specific written authority in advance, the number of Matters where your Client does not attend you in person either because you accept an application under Paragraph 3.15 or provide telephone or email advice under Paragraph 3.18, must not exceed 25% of your total Matters opened in any Schedule period.”

This provision has been amended from previous contracts to increase the proportion of Matters where an application for Controlled Work can be accepted by post, fax or email without the need for the Client to attend the Office in person from 10% to 25% of Matters over any Schedule period (excluding any such applications that are accepted in order to comply with duties under the Equality Act 2010, which do not count towards the 25% limit).

Section 3: Supervisor requirements (apply across all Categories of Law)

Q3.1. What provision is made if a proposed Supervisor has been on maternity leave for the previous 12 months to ensure that they are not discriminated against on the grounds of pregnancy or maternity? Can alternative case involvement and legal competence be provided instead?

A. The LAA's approach to the requirements of the Legal Competence Standard and the Case Involvement Standard where a proposed Supervisor has been on maternity leave is set out in the document "Guidance on Civil Supervisor Requirements (September 2017)", which has been published on the LAA's website alongside the draft 2018 Standard Civil Contract:

<https://www.gov.uk/government/publications/standard-civil-contract-2018>

Q3.2. In relation to the qualification of supervisors, the 2018 Standard Civil Contract Specification states at paragraph 2.17 that:

"The Case Involvement Standard will be measured as at the time a person becomes a Supervisor and at any point during the Contract when we request confirmation of the Case Involvement Standard".

Please would you clarify the point when a person becomes a Supervisor? Is this at the point that they sign and submit the Supervisor Standard and Declaration Form?

A. An Applicant must determine at which point in time an individual meets the Supervisor Standard. An individual must be able to demonstrate that they have the relevant experience to meet the supervisor requirements, as set out in clauses 2.10-2.28 of the 2018 Standard Civil Contract Specification and the relevant Category Specific Rules prior to completing and submitting the Supervisor Self Declaration Form.

Q.3.3 If one person meets the standards to be a Supervisor on more than one Category of Law, can they be considered to be a Full Time Equivalent supervisor on those two Categories?

A. No. Unless otherwise set out in the Category Specific Rules, for example in Claims Against Public Authorities, Providers must comply with paragraph 2.10 of the Standard Civil Contract Specification. This requires providers to have at least one full-time (or full-time equivalent) Supervisor in each Category.

A single individual working on a full-time basis as a Supervisor of a single Category can only satisfy this requirement in relation to that Category.

For the avoidance of doubt, a Provider can meet this requirement by having more than one individual acting as Supervisors in a Category.

In that case, an individual working on a full-time basis could be a Supervisor in more than one Category, but they cannot on their own meet the requirement at paragraph 2.10 in more than one Category.

Q.3.4. May 1 qualified Supervisor based at office 1 supervise a Caseworker at office 2 under paragraph 2.26 of the General Specification?

A. Yes. As set out at paragraph 2.26:

“A Supervisor must not supervise more than four Caseworkers across a maximum of two Offices or across two Providers with one Office each.”

Section 4: Matter Starts

Q4.1. In which Lots would I have the ability to self-grant an additional 50% volume of Matter Starts?

Q4.1. You have said that firms can self-grant up to 50% of the allocation of Matter Starts. Paragraph 2.49 says Immigration Applicants bidding in Lot 3 or Above 3 can self-grant matter starts without an upper limit. Do I understand correctly, therefore, that the 50% self-grant limit does not apply to firms with Lot 3 or Above Lot 3 for immigration?

A. As set out at paragraph 1.73 of the IFA: “Applicants awarded a Face to Face Contract will, subject to notifying their LAA Contract Manager and receiving Contract Manager confirmation, be able to self-grant up to an additional 50% of their Matter Start allocation at that Office each year if required.” This is not specific to any Lot.

However, as set out at paragraph 2.49 of the IFA: “Applicants who are successful in bidding in Lot 3 or Above Lot 3 in Immigration and Asylum will be able to self-grant Matter Starts for that Office without an upper limit to conduct work in accordance with paragraphs 1.73-1.76, subject to agreement with their LAA Contract Manager”.

Q4.2. Will there be a sanction if we do not use all of the Matter Starts granted each year under the Contract?

For example, if you use 180 of 300 starts in the first year, will the next year matter starts be reduced?

Will there be sanctions if we bid for a higher lot and are unable to fulfil 75% of that lot?

A. No. Please refer to paragraphs 1.25 and 1.26 of the 2018 Standard Civil Contract Specification which specifies how matter starts will be allocated under a new Schedule.

Q4.3. Are we right in our understanding that there is no cap on Matter Starts this time and thus we will have the opportunity to get what we bid for and our bid will not be reduced if there are a large number of firms bidding in a Procurement Area.

A. As set out at paragraph 1.33 of the IFA: “There is no limit to the number of Matter Starts the LAA intends to award in any Procurement Area (or in the case of Immigration and Asylum, Access Point). Successful Applicants will be awarded the volume of work as relevant in the Category of Law they bid for (see the ‘Lots’ section below), subject to completing verification.”

Section 5: Above Top Lot bids

Q.5.1. Applicants will need to complete a Delivery Plan if they are bidding above the top Lot and/or to deliver more Matter Starts than they did from that Office between 1 September 2016 and 31st August 2017.

Paragraph 2.33 says that in Immigration and Asylum, Applicants can, at the verification stage, name other offices in the Procurement Area from which they will have a presence, and these will be listed in their Schedule but not have a separate Matter Start allocation.

If the Applicant has undertaken the relevant number of Matter Starts from their network of offices, but has not undertaken them from the Office from which they are bidding, will they need to complete a Delivery Plan?

A. Yes. If the Office from which they bid has not delivered the volume of Matter of Starts bid for, then they must complete a Delivery Plan. The LAA will review its own records by using the Office address and LAA Account Number provided to check the volume of Matter Starts delivered in the 12-month period specified against the volume bid for.

Where the LAA's records do not confirm that the volume of Matter Starts has been delivered and where no Delivery Plan has been provided, the Applicant will receive the volume of Matter Starts reported as opened in that Office as set out in paragraphs 6.17 and 6.18 of the IFA.

Q.5.2. We are completing our above Lot 3 bid in Immigration & Asylum. Our records indicate that we have started X matter starts between 01.09.16 - 31.08.17 from our Office. How can we check this to make sure that this accords with the figures that the LAA hold as we wish to bid for the same amount of matter starts and thus, we understand, do not need to complete a delivery plan?

A. Applicants who are current providers of Contract Work in the Category of Law in which they intend to tender can review their own records held on the Contract Work and Administration (CWA) system to confirm the number of Matter Start reported as opened between 1 September 2016 and 31 August 2017.

Section 6: Miscellaneous Work

Q.6.1. Each ITT refers to Matter Starts to undertake compensation claims for victims of human trafficking and /or modern slavery. If we wish to receive an allocation of 25 Matter Starts in total (as a firm) but are bidding to deliver 3 categories of Law how should we apply? Do we have to bid under each ITT or just one? If we need to apply only once, under which ITT should we apply?

A. Applicants wishing to bid to deliver Matter Starts to undertake compensation claims for victims of human trafficking and/or modern slavery will only be required to submit their bid **once** and can do so in any Category ITT they wish.

As set out at paragraph 1.81 of the IFA Applicants responding to more than one ITT do not need to complete the Business Case as part of each ITT Response where they are bidding for more than 25 Matter Starts to undertake this work.

Section 7: Minimum Contract Requirements

Q.7.1. We wish to retain a family contract and undertake certificated work. However, we do not seek any matter starts for legal help as we propose to undertake such work pro-bono due to the high level of administration required for legal helps. We meet the criteria but feel it would be a waste of matter starts to simply apply and not use them. How do we proceed with a bid?

A. As set out at paragraph 1.42 of the IFA, Applicants who wish to bid to deliver Family Contract Work may bid to deliver Licensed Work only, by submitting a Tender in the Licensed Work Only Lot. In doing so, Applicants would not be required to bid for or, if successful, deliver Matter Starts under the Contract.

Q.7.2. We would like to tender for an additional office undertaking Family Contract Work, but only providing a part time presence. The ITT declaration says we confirm that each office will be a permanent presence to deliver family contracts. Can we not apply for a part time presence for a family contract? If we can, what do I need to complete?

A. It is not possible for Applicants to deliver Family Contract Work on the basis of a part-time presence. As set out at 2.39 of the IFA, it is a requirement that each Office in the Procurement Area in which the Applicant is tendering to deliver Family Contract Work will be a Permanent Presence from the Contract Start Date

Section 8: Mediation Contract Accreditation

Q.8.1. Paragraph 2.80 in the family mediation category specific requirements refers only to the Family Mediation Council (FMC) Accreditation. The Law Society's family mediation accreditation scheme remains separate from the FMC Accreditation and the reaccreditation standard is arguably more onerous. Both the Law Society and the FMC Accreditation standards were designed to meet the standards of the Family Mediation Standards Board. The Law Society is of course a member of the FMC.

Please will you confirm that the Law Society family mediation accreditation standard is acceptable and considered to be the same as the FMC Accreditation for the purposes of this tender.

A. In order to meet the Mediation Contract requirements, mediators must hold Family Mediation Council Accreditation (FMCA). The Law Society's Family Mediation Accreditation will not allow mediators to meet this requirement.

Where a mediator does not currently hold FMCA but holds The Law Society's Family Mediation Accreditation and wishes to undertake Mediation Contract Work under a 2018 Contract, they must apply to hold FMCA.

Section 9: Submission of verification information

Q.9.1. Please clarify whether or not we have to submit verification information, such as Supervisor Declaration Forms with the Tender (i.e. the SQ and ITT)?

Q.9.1. I would like to establish a new firm with a new contract next year, however, I am yet to give my notice to my current employer where I am a Supervisor. Will it create problems for our new firm bid if we are also named as supervisors etc on the old firm bid or does it just matter by the time of validating the offers next year?

A. There is no opportunity to submit verification information such as Supervisor Declaration Forms as part of an Applicant's tender.

As set out at paragraphs 7.1 and 7.2 of the IFA, requests for verification information will be sent to Applicants at the same time as they are notified that they have been successful. Verification (which includes submission of compliant Supervisor Declaration Forms) must be concluded at least six weeks before the Contract Start Date.

Paragraph 2.26 of the Standard Civil Contract General Specification states "...For the avoidance of doubt a Supervisor may only be employed on a full-time basis by one Provider...".

Q9.2. Do fee earners who already have supervisor status have to complete and submit the supervisor standard and declaration form?

A. Yes. The LAA will require Applicants who have been notified of the LAA's intention to award a 2018 Contract to provide relevant Supervisor Declaration Forms for each individual they wish to act as a Supervisor under the 2018 Contract as part of the verification process. Further information on verification is set out at Section 7 of the IFA.

Q.9.3 We do not currently employ a Supervisor. Is there any detriment to an Applicant if we submit a Tender without one?

What happens if we cannot employ a Supervisor by 6 weeks before the Contract Start Date?

A. Applicants are not required to employ a Supervisor at the time of tender, however by submitting a Tender they commit to meeting the applicable requirements for the Category(ies) of Law in which they bid.

As set out at paragraph 7.3: "It is the Applicant's sole responsibility to ensure they provide us with all the necessary information to evidence they meet the relevant verification requirements no later than 23:59 on 20 July 2018."

The consequences of not meeting the verification requirements by this deadline are set out at paragraph 7.4: "Where the Applicant has not submitted information in accordance with the verification process for either an Individual Bid or its entire face to face Contract award 23:59 on 20 July 2018, then the award in respect of an Individual Bid or the entire Face to Face Contract may be withdrawn as applicable."

Section 10: Withdrawing from Individual Bids

Q.10.1. Can successful firms accept part of what they are offered? Either in terms of accepting a contract for one Office but not another, or for one Category of Law but not another?

A. Yes, for Face to Face Contracts, it will be possible for Applicants to withdraw from Individual Bids.

Section 11: Key Performance Indicators

Q.11.1. The 2018 Standard Civil Contract Specification sets out the circumstances in which enhancements to hourly rates can be claimed (6.13-6.16).

KPI 2 states that the aggregate amount that costs claimed are reduced by must not exceed 15%.

Please would you clarify whether a refusal or reduction of enhancement is classified as a reduction in costs?

A. KPI 2 measures the aggregate amount of costs claimed in relevant Licensed Work cases that are reduced on assessment (after any appeals have been completed). This includes any reduction of costs claimed as an enhancement in those cases. The aggregate amount that is reduced must not exceed 15%.

Section 12: Immigration and Asylum Contract Requirements

Q.12.1 We currently hold a Face to Face Immigration and Asylum Contract based in the County of Gloucestershire in the South West Procurement Area. The IFA requires bidders to have an Office in either the City of Bristol, South Gloucestershire and North Somerset, or City of Plymouth and Devon, or Swindon Access Points. On this basis we would no longer be able to apply to deliver Immigration and Asylum Contract Work from September 2018.

Is this an error or is there a particular reason why a decision has been taken to exclude Applicants based in Gloucester in this way?

A. We are aware that there is an error in the information provided in Annex A and we published further information on this in the Face to Face Contract amendment notice published on 19 October 2017.

Section 13: Part Time Equivalent Supervisor Requirements

Q.13.1. For the Claims Against Public Authorities, Clinical Negligence and Public Law Categories of Law, the requirement is at least one PTE Supervisor, and 1 PTE Supervisor to every 2 Caseworkers ratio.

Does this mean that a FTE Supervisor counts as 2 x PTE and can supervise four Caseworkers?

A. Yes, the minimum supervisor to caseworker ratio per Category is set out at paragraph 2.26 of the 2018 Standard Civil Contract Specification. The minimum ratio is 1 full-time FTE Supervisor to 4 Caseworkers. A provider who employs 2 part-time equivalent (PTE) Supervisors together working the same hours as required one FTE Supervisor, will meet the requirement of 1 FTE Supervisor to 4 Caseworkers. Each PTE Supervisor may not supervise more than 2 full time (or FTE) Caseworkers under this Contract.