

2018 Civil Tender Process

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**INTRODUCTION**

Civil only providers will have had a few years away from the joys of legal aid tendering but crime providers have been through the mill over the past three years with two failed exercises – Price Competitive Tendering followed by separately flawed ‘duty’ and ‘own’ solicitor tenders – before settling on what appeared to be a fairly non-controversial tender. That tender was in fact overly complicated and fraught with difficulties.

The current Civil tender appears to be relatively straight-forward but experience has demonstrated the need to take extreme care as there are complexities and many ways in which something can go wrong.

This guide will walk you through the Civil tender and shall focus on:

* What needs to be submitted
* How to successfully complete the tender
* Understanding the verification requirements
	+ the supervisor forms
	+ the indemnity form
	+ the SQM or Lexcel certificate

For firms wishing to significantly increase the number of matter starts it currently delivers, it will need to draft and submit a concise delivery plan. This will lead to questions about assessment and consistency of marking which we seek to address in this guide.

**WHAT NEEDS TO BE SUBMITTED**

All Tenders must be completed and submitted using the Bravo eTendering system (Bravo Portal) -

<https://legalaid.bravosolution.co.uk/web/login.shtml>

Take care to visit the up to date website link for the Bravo tendering system. If you use an out of date link you may end up with a warning that the site is not secure.



To complete the tender process for this Contract, you will need to complete the following:

* your response to the Selection Questionnaire (SQ) which was previously known as the Pre-Qualification Questionnaire (PQQ); and
* your response to one or more of the individual Procurement Area ITTs (Procurement Area Bid(s))

**Methods of submitting a response**

There are two main ways in which you can complete the SQ and ITT(s):

* Straight input of text into the Bravo Portal

By this means, you would simply type your answers directly into the Bravo Portal (noting that some answers will simply involve choosing the relevant answer from drop down boxes within the portal). This is the most common method of completing the tender.

* Inputting text into a spreadsheet for manual upload to the Bravo Portal

This alternative method involves downloading the questions from the ITT into an excel spreadsheet. You can then complete your answers on to the spreadsheet and once complete, upload the data from the spreadsheet directly to the Bravo Portal. If you are confident with downloading and uploading excel spreadsheets (and relatively IT proficient), this may be an option. However, please be aware that if you accidently add, delete or remove any rows or answers, your tender will probably fail.

If you wish to use this method, please follow the steps below:

Downloading the spreadsheet

1. Log-on to Bravo using your username and password
2. Select My ITTs
3. Select the ITT you wish to complete
4. In the top right-hand corner of the screen, click on the box ‘Export/Import Response’
5. Select download
6. Open the spreadsheet and save it to your PC or server
7. Complete the spreadsheet taking great care not to alter the design or layout of the spreadsheet
8. Save the spreadsheet onto your PC – preferably by giving it a clearly recognisable name, version number (and a date) to make it clear which document you will later need to upload

Uploading the completed spreadsheet

1. Log-on to Bravo using your username and password
2. Select My ITTs
3. Select ITT you wish to complete
4. In the top right hand corner of the screen, click on the box ‘Export/Import Response’
5. Next to ‘Select file to import’ select the ‘Choose file’ button
6. You will be asked to select a file from your PC or server. Find the location of the file.
7. Select the button ‘Import Excel’
8. You should see a message ‘Your Response has been successfully imported.’
9. Check that the response accords with the content of your spreadsheet. If not, select the option ‘Undo all changes’ and try again
10. Go back to step 1 and this time complete an ITT for each procurement area where you are submitting a tender and an Organisation ITT.

Even if you do not choose the second option, you may still like to use the spreadsheets as a means of collating your answers prior to your inputting directly on to the Bravo Portal.

Be careful with the format of the file. When saving our test answers as a spreadsheet, the file was automatically saved as an xml file. When we tried to upload the completed ITT using the same file format, we encountered the following problem:



To proceed we had to change the format of the file to xlsx before uploading the file.

We also initially experienced issues with the answers appearing in the correct boxes which resulted in the following error:





Therefore, we would strongly recommend that you answer the questions on the portal directly and avoid the spreadsheet option.

Timetable and Deadlines

Current providers will be aware that the indicative timetable is simply that. The LAA usually change the timetable to allow for errors and omissions. For instance, because of errors, the Information for Applicants (IFA) document for the recent Crime Tendering process had to be re-issued three times with an associated Postcode Tool as well as other important forms also being re-issued several times.

It is therefore expected that the IFA document in this current tender will be updated at least once (but probably a few times) before the end of the tender submission window. It is therefore important to keep an eye out for any developments and ensure that you are aware of any updates that may affect your tender.

The submission deadline is unlikely to change. The Contract Start Date is the least likely to change.

The current timetable is:

|  |  |
| --- | --- |
| **Activity** | **Timescale** |
| Procurement process opens and available via the LAA’s e-Tendering portal  | 19 September 2017  |
| Final date for submission of questions about this procurement process  | **23:59 on 19 October 2017** |
| Final ‘Frequently Asked Questions’ document to be published  | W/C 30 October 2017 |
| **Deadline for submission of Tenders**  | **17:00 on 10 November 2017** |
| Outcome of Tenders notified  | Housing, Debt & Welfare Benefits – January 2018All other categories – March 2018  |
| Final deadline for submitting Tender verification  | 20 July 2018  |
| **Contract Start Date**  | **1 September 2018**  |

**HOW TO SUCCESSFULLY COMPLETE THE TENDER**

**Manage My Profile**

Start by visiting the home page at <https://legalaid.bravosolution.co.uk/web/login.shtml>

Unless you are a first-time user, you will have a user name and password. Once you enter those details you may be asked to set a new password. Please ensure that the password is stored in a secure place.

If you are a new provider or you have changed name or entity, you should register for a new account at <https://legalaid.bravosolution.co.uk/esop/toolkit/initRegistration.do?_ncp=1506327155827.1087-2>

There There is good guidance about registering a new account at:

<https://legalaid.bravosolution.co.uk/web/docs/QG01%20Registration%20guide.pdf>

If registering for a new account, please disregard the suggestion of using a mother’s maiden name as the user verification question as it is surprisingly easy for criminals to find this through social media. Please instead use a question where the answer cannot easily be found online.

Even if you haven’t changed name or entity, it’s important to start by selecting ‘Manage my Profile’ option in the top left hand corner of the screen.

Check that the details about the firm are accurate and up to date. Most importantly, ensure that at least two, preferably three, email addresses are included in the organisational email address field. Alternatively (and probably best practice) you may add additional users to the system. The advantage of having additional users is that it is easier to work out who did what if anything goes wrong!

**Selection Questionnaire**

Important

The o There is an inherent flaw to be wary of and which will cause confusion. The SQ is not separately listed shown as an option in any part of the portal. It is not contained in the PQQ or ITT sections of the portal and bidders may be excused for considering that it is missing entirely.

The organisation Selection Questionnaire is hidden until you ‘express interest’ in an individual bid ITT.

On the home page, select ‘ITTs open to all suppliers’ and express interest in the areas of law you are interested in bidding. Once you have expressed an interest in at least one ITT, the system will ‘release’ the SQ. This will move the tenders ***and*** the organisation SQ into the ‘My ITTs’ section of the system.

The SQ consists of four sections:

* Section A: Organisation and Contact Details
* Section B: Grounds for Mandatory Exclusion
* Section C: Grounds for Discretionary Exclusion
* Section D: Declarations

Section A

Section A asks for information about the organisation. Do ensure that your address is correct and matches the full address details on the Law Society’s database at <http://solicitors.lawsociety.org.uk/>

Most of this section is relatively straightforward but there are some fields that we see completed incorrectly such as the Legal Aid Account Number.

Ensure that the Legal Aid Account number is correct. The ‘number’ is always a number followed by a letter and then three numbers and finished with a letter e.g. 1A234B.

You will note that this section asks for the firm’s Registered or Head Office address. The office addresses from which you will deliver the services (if different) will need to be set out in the individual ITTs.

Take care when answering question A.4.i – Intended trading status. Please note that for the first time, the LAA will refuse to accept any requests to change legal entity between the date the tender window closes (10 November 2017) and the Contract Start Date (1 September 2018). This is probably because of the sheer number of firms that change entity during a tender window.

As you are working your way through the tender, ensure that you press ‘Save Changes’ regularly otherwise you will lose some or all of what you have inputted.

Section B

Section B covers the grounds for mandatory exclusion.

At the beginning of this section, the LAA state:

*Where the Applicant answers "Yes" to any question within this section the LAA will exclude it from participating further in this procurement process, unless there are mitigating circumstances which the LAA deems to be satisfactory.*

The LAA require you to view the list of mandatory and discretionary exclusions before answering the questions in this section. They provide the following link to view the list:

[https://www.gov.uk/government/­uploads/system/uploads/attachm­ent\_data/file/551130/List\_of\_M­andatory\_and\_Discretionary\_Exc­lusions.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf)

Some practitioners will need to complete details in relation to repayment schedules of owed tax and/or national insurance to HMRC. The IFA goes on to state that:

*If the Applicant answers “Yes” to question B.2 on the non-payment of taxes or social security contributions, and has not paid or entered into a binding arrangement to pay the full amount, it may still avoid exclusion if only minor tax or social security contributions are unpaid or if it has not yet had time to fulfil its obligations since learning of the exact amount due. If the Applicant is in that position please provide details in the free text boxes to the supplementary question B.2(a) - (f).*

In previous tenders, our experience has been that the LAA and its predecessor bodies have exercised discretion where the applicant can demonstrate that the any repayment schedule agreed has been adhered to without any missed payments.

Section C

This is a very long list of questions covering areas such as bankruptcy, IVAs, Contract terminations, Peer Review results, CCJs, regulatory findings and compliance with equality, environmental & procurement legislation. Please note that these questions generally relate to events that have happened to the firm or its key personnel in the last three years.

A reminder – you will need the list of mandatory and discretionary exclusions using the link above.

Section D – Declarations

Two declarations are required in this section. The answers submitted in the tender must be confirmed to be correct by the person completing the tender and the firm’s Compliance Officer for Legal Practice (COLP).

Please note that the LAA are now very strong on referring to any declarations signed by a COLP when they are verifying information about a firm. By way of example, the LAA is currently seeking to remove a high number of crime duty solicitors from the rotas because they are alleged to not be meeting a key requirement of conducting 14 hours of contract work per week. The LAA has been referring back to a declaration made by the COLP in the Crime tender to the effect that the COLP undertakes that they will meet the contractual requirements including the 14-hour rule. Therefore, the COLP should take personal care to check that the answers provided are truthful and accurate.

An example of where this could go wrong in practice is where there has been a non-declaration of, for example, the existence of a CCJ and the LAA finding out about it.

**Individual Bid ITT(s) and Delivery Plans**

Each ITT is split into a number of different sections.

Section A

Section A of each ITT generally requires office details and, for the majority of ITTs, confirmation of the number of matter starts you are bidding for.

Most categories are being tendered in lots for which you will need to demonstrate (in the verification stage) that you meet the relevant criteria associated to that lot. This may include having fee earners with particular accreditations.

If you are wanting to significantly increase the number of matter starts you currently deliver (that is, if you haven’t delivered at least the same number of matter starts you are bidding for between 1 September 2016 and 31 August 2017), you are required to provide a Delivery Plan demonstrating how you propose to manage and deliver that number of matter starts.

If you do not need to draft a delivery plan for mater starts above the standard lot allocations or provide a business case for miscellaneous matter starts (see below), the ITTs are relatively short.

Delivery Plan

If you do need to prepare a delivery plan then you’ll need to prepare a number of carefully worded answers. This is not a competitive exercise. The Assessor will make a decision based simply upon whether they are convinced that you can deliver the number of matter starts that you have asked for.

Let’s look at each question in turn.

*Question 1*

*Please provide details of how you intend to build your capacity and caseload in order to deliver the full volume of cases bid for, including:*

*- How you will set and assess the key milestones (with dates) which will need to be met to ensure the delivery of the full volume of Matter Starts bid for; and*

*- Any recruitment required to deliver the volume of Matter Starts bid for (including the position recruits will hold in respect of this Face to Face Contract (e.g. Supervisor or caseworker), key qualifications and experience required, milestones and dates for the employment and training of those staff)*

The question is seeking your comments about your capacity and your recruitment processes.

Ensure that you deal with any specific anomalies or requirements relevant to the Procurement Area you are bidding in (if applicable) and the category of law especially where this impacts on recruitment needs.

Ensure that you answer each of the individual parts of the question as differentiated by the dash marks.

Be specific in stating whether the position(s) are for caseworkers or supervisors, key qualification and experience required, milestones and dates for the employment and training of the staff. Factors to consider could include your ability to meet the required ratio of supervisors to caseworkers and having caseworkers with appropriate qualifications and experience for the different levels of casework.

If you need to recruit staff set out milestones, including dates, by which you can assess progress (such as advertising positions, short-listing and interviews).

Even if you do not need to recruit, answer the question on the basis of your general processes and, importantly, on the basis that you have implemented a contingency plan which would be implemented should a vacancy arise before the Contract Start Date or during the Contract (this may or may not be the same as the contingency/succession plan the LAA have asked you to set out as part of question 3). Contingency planning would be a sensible approach for any organisation, irrespective of current size or standing.  There is a real risk that fee earners/supervisors may wish to leave your organisation to join other practices.  If the staff details provided in your Bid change at any time after the tender window closes (e.g. people leave your organisation to join other firms) then you may have the means to argue that you can still deliver on what you have set out in the delivery plan by putting into effect your contingency plan.

*Question 2*

*Please confirm how clients will access your services. Please include in your response specific details as to:*

*- Any signposting and referral arrangements with other LAA providers; and*

*- Any signposting and referral arrangements with non-legal aid providers, local charities or groups; and*

*- Any other methods by which clients will be able to access your services.*

*Where these signposting and referral arrangements are not currently in place, please include details of how you will establish them (including milestones and dates).*

Ensure that you answer each of the individual parts of the question as differentiated by the dash marks.

With regard to this question about how clients will access your services, include in your answer details covering:

•             Your office opening hours

•             Out of office services including say home visits and court advocacy

•             Services delivered by telephone and/or email

•             Any electronic access including website, apps and other social media

You must include specific details about firms, agencies and charities that signpost and/or refer clients to you or any reciprocal arrangements.

If you do not have any signposting or referral arrangements in place, you will need to set out how you will establish them. This needs to be specific and time-based, including milestone dates by when you will have achieved your objectives. For instance, you may consider creating written profiles/leaflets, organising network events and/or scheduling face-to-face meetings with potential referrers. Set out the key dates by which these will take place so as to demonstrate that they will be in place by the Contract Start Date and the means for evaluating performance.

You should also consider briefly defining signposting and, separately, referral to demonstrate you understand the difference.

*Question 3*

*Please describe the arrangements in place for supervision, specifically to address:*

*- The increased volume of cases being conducted; and*

*- How specific tasks will be allocated and supervised where more than one caseworker will be conducting work on a client’s case; and*

*- How the short-term absence of caseworkers and Supervisors will be managed; and*

*- A summary of the contingency or succession plans for long-term absence or resignations.*

Ensure that you answer each of the individual parts of the question as differentiated by the dash marks.

You need to explain the means by which you will allocate cases including who is responsible for allocation and factors they take into account such as capacity, expertise and the particulars of the case.

The question is specifically asking about how you deal with cases where more than one fee earner will be conducting work and so you should consider how this will be managed. You may need to explain any particular hierarchy in your organisation and who is ultimately responsible for cases. You may need to consider how specific tasks are allocated and managed and by whom. Consider the factors you would take into account when considering allocation and supervision of specific tasks.

You may wish to consider the means by which such as reviews of caseloads and time recording in order to highlight any issues regarding allocation and under or over utilisation and how you deal with this on a practical level.

Explain your proposed supervision regime including the methods of supervision used. This may include file reviews, group meetings (where more than one caseworker is involved), one to one meetings and other means for supervision. You may wish to include information on how information from these methods is feedback to the staff members whether that be by means of appraisals or meetings or such like. In addition, you could consider steps that may be taken subsequently such as amendments to training plans etc.

The question is asking you to demonstrate your knowledge and understanding about resource planning and management to ensure that capacity (and quality) is maintained through staff absences and despite staff departures. The LAA is looking for confidence that, come what may, you will have enough staff available each day to deliver the number of matter starts you are seeking.

You may consider explaining your procedures for ensuring the management of planned and unplanned staff absences. These may include risk assessment or review procedures; procedures whereby all staff members are required to book any holiday; and/or how you make decisions in relation to requests for extended absence, taking into account any upcoming key dates, the availability of other staff members during the period of leave and any difficulties in arranging cover so as to ensure the smooth running of the organisation and ability to meet service levels.

You could also consider the means by which you will keep staff motivated such that they do not adversely impact on the day to day operation by taking unexpected leave or indeed leaving the organisation altogether.

You may wish to consider how you plan for succession and having people in place to be elevated to management/supervisory level as time progresses.

Action plans may include identifying existing staff with relevant experience who could temporarily fill vacancies, recruitment plans (including sourcing candidates and interviewing), and by the Contract Start Date (or as required), any induction and other training and supervisory controls.

 *Marking the Delivery Plan*

The IFA document unhelpfully does not include any information about how they will assess delivery plans. It is worth considering how the LAA said they would score delivery plans required for the failed duty solicitor tender.

The markers were asked to consider the degree to which the answer:

* Addressed all issues / areas in a comprehensive manner
* Provided high quality / detailed information
* Provided consistent information (i.e. answers did not contradict each other)

If you ask a colleague to assess your answer based on the bullet points above it should be helpful.

Section B

In addition, in all categories except Family Mediation, you are able to bid for a number of additional Miscellaneous matter starts to undertake compensation claims for victims of human trafficking and/or modern slavery pursuant to paragraphs 32(2) and (3) and 32A (2) and (3) of Part 1 of Schedule 1 of LASPO.  If you want to you want to bid for more than 25 Miscellaneous matter starts then you will have to draft a business case for having them. If you are submitting multiple ITT Responses, you do not need to provide a business case in each ITT and you may choose which ITT you use to provide the Business Case.

Section C

As with the organisation SQ, a declaration must be completed by the person completing the form and the COLP.

**UNDERSTANDING THE VERIFICATION REQUIREMENTS**

In contrast to previous tenders, the LAA do not require applicants to submit any verification as part of their Tender. This may be because the recent crime tender was particularly tortuous when it came to submitting and re-submitting verification. It appears that this time round the LAA are content for providers to wait and submit verification only after a contract offer has been made.

Some bidders may want to send verification documentation to the LAA after they submit the tender (perhaps with a view to ‘be done’ with the tender). However, we would strongly recommend waiting and only submitting verification information after a contract award has been made. The LAA will doubtless provide additional information about the verification required.

Notwithstanding the above, in order for firms to prepare themselves for the next post-offer stage in the tender, we offer some guidance about the verification process.

Supervisor Forms

Many practitioners experienced difficulties with the LAA rejecting completed supervisor and personal indemnity forms. The supervisor form is the document most commonly rejected by the LA.

You can download the forms from <https://www.gov.uk/government/publications/standard-civil-contract-2018> - scroll down until the middle of this very long page.

In the first box, you should enter details of the office to be supervised from 1 September 2018. Only include the postcode if it is a new office without an LAA account number.

The second box covers the generic supervision requirements. Either you must be able to demonstrate that you have supervised full time at least one caseworker for at least one year in the preceding five years or you must complete an approved supervisor course.

Note that there is no such route as a NVQ in supervising so please do not tick that box!

The third section covers the legal competence standard. Depending upon the category of law, you’ll either need to provide accreditation details, a portfolio of cases or a mixture of both.

In section 4, the bulk of your casework involvement hours will be comprised of personal casework. If you have been doing file reviews, ensure that you remember to complete that box (it’s helpful to demonstrate that file reviews are happening!)

There is no need to physically sign the declaration. A tick of a box and a declaration is sufficient but you should include the name and role of the person making the declaration. The declaration can the same person completing the form so long as that person is also a member of your key personnel. For the first time, the COLP also has to ‘sign’ the form for same reason set out earlier i.e. to increase accountability should some of the content be inaccurate.

 For the first time there is no ability to upload supervisor forms to the ITT. When you wish to submit supervisor forms you should do so after the offer of a contract has been made. This will probably be done via the Bravo messaging system but this is yet to be confirmed by the LAA.

If you are sending more than one supervisor form (e.g. one for each of your offices), you may need to collate the forms into a single document. This can be achieved by scanning documents into a single PDF or using a PDF combining tool (e.g. that offered by Adobe Pro).

Indemnity Form

The indemnity forms may be downloaded from: <https://www.gov.uk/government/publications/personal-guarantee-and-indemnity>

Ensure that the name of the provider is included on page 1 and that section 11 is fully completed.

SQM / Lexcel Certificate

When you are asked for it, check that you are sending the most up to date certificate. It must be in force until at least 1 September 2018. The deadline to submit the certificate is 20 July 2018.

 We have therefore highlighted a problem here for providers whose certificate expires between the period 20 July to 1 September 2018. Firms in this position whose audit would normally be scheduled to take place between July and September 2018 may need to bring forward the date of their audit.

Other Verification

The IFA explains that a Contract Management visit shall take place at each office within six months of the start of the contract to verify compliance with the 1:4 supervisor to caseworker ratio. Presumably, this visit will look at other areas too including whether the office meets presence requirements as specified by the contract.

**SUBMITTING THE BID – SOME TIPS**

In each tender exercise, many firms are informed that they have been unsuccessful for one of a variety of technical errors. In this section, we explain the most common errors and how to avoid them.

Failure to respond to questions seeking verification or clarification of your answers

You will receive a significant volume of tender messages generated by the Bravo system. Some are more important than others and some are considered by some to be trivial. Given the sheer number of messages sent, it can be tempting to ignore or delete these messages. Occasionally, a very important message will be sent that looks like identical to all the other messages save for the subject heading. It is crucial therefore that all Bravo messages are checked by you and at least one other colleague.

It is advisable to include a few email notification addresses in your User Profile in the Bravo system. That way, if one person misses an important email, someone else should pick it up. To add further notification email addresses to the User Profile, follow these steps:

1. Log-on to Bravo using your username and password
2. In the top left hand corner, select ‘Manage Your Profile’
3. In the User Details section, select the cell adjacent to:

*Email Address IMPORTANT: This email address will be used for access to the site and for all communications. Please ensure you enter the address correctly. Please use ";" (semicolon) to separate multiple addresses.*

1. Add email addresses for those people you’d like to receive the Bravo notifications.

There have been some firms that have lost the offer of a contract as they have not replied to a question within the timeframe stipulated by the LAA.

Not checking tenders that have been ‘submitted’

It appears obvious to check the tender before it is submitted through the Bravo portal and of course most providers will do this and may retain evidence of the checked bid before it is submitted. However, it is much more important to check the tender after it has been ‘submitted.’

If the LAA find a fatal error and the provider provides evidence to show that the tender was accurate before it was submitted, such evidence is worthless. It is only what has been submitted that is relevant. This problem has happened to dozens of firms in the past.

It is crucial to check the ‘submitted’ tender and retain evidence of the checked tender. As an absolute minimum, you should do this by printing a PDF of the ‘submitted’ tender. To do this, follow these steps:

1. Log-on to Bravo using your username and password
2. Select My ITTs
3. Select the relevant ITTs
4. In the top right hand corner of the screen, click on white square with three dots - 
5. Select Printable View
6. Select Download PDF
7. Save the PDF to your PC or server
8. Check the PDF. Most crucially, on Page 1 you should look for the Response Status Box. It should state ‘Response Submitted to Buyer.’ If it does not, the tender has not been submitted.
9. Repeat the steps above for each Procurement ITT you have completed.

Some providers have a fear of pressing the ‘submit’ button until they are 100% happy with the tender. This fear is irrational as you may re-submit a tender as many times as necessary. In fact, when we check tenders, we only do so after the ‘submit’ button has been pressed for the reasons explained above.

As an additional check, we would advise using screen capture software. Such software records you checking the tender. Our practice is to start by ensuring that the tender has been ‘submitted.’ We open the software and then visit this website <http://www.timeanddate.com/> to show the time and date that the tender was checked. This is important because your Bravo account will record the time and date that the tender was submitted. We then record the checking of each part of the tender to demonstrate that the tender was complete and accurate after it has been submitted. The video file should then be stored and backup in a safe location.

Not asking others for help

Many firms have made fatal errors such as answering ‘Yes’ when they meant ‘No’. The LAA has been heavily criticised in the past for including double negatives in questions.

A completed tender should always be checked by at least three people. And for the reasons stated above, it’s far more important to check a submitted tender. You may wish to ask people inside and outside the firm for assistance.

Not checking that both the SQ and all relevant ITTs have been submitted.

In previous tender exercises, some firms failed because they did not successfully submit both the Pre-Qualification Questionnaire (PQQ) and the Invitation to Tender.

In this tender, there is no PQQ. However, you must complete both the SQ and an ITT for each area of law that you want to receive a contract for.

Delegating and not checking

Some firms have delegated the task of submitting the bid to junior, more I.T. literate staff without thoroughly checking what has been submitted.

Leaving it late

It is human nature to leave things to the last minute. After each tender round, the LAA inform the representative bodies of the numbers of providers that do not submit the tender until the final morning. The number is very high.

We recall an appeal being lodged where the representations were drafted by a QC at 11:59 just 10 seconds before the tender window closed! Such pressure can be difficult to cope with!

Those that leave it late face a number of risks. The portal slows down significantly when higher numbers of providers are using the system. This is inevitably towards the end of the tender window. Further, if your broadband cuts out or a member of staff involved in submitting the bid falls ill, your stress levels will rise! A provider is also far more likely to make a mistake if the tender is submitted on the final day. It is therefore advisable not to use the Bravo portal on the final morning. However, many will come unstuck.

Use video capture software

An absolute must. You should use video capture software to ‘film’ checking of the submitted bid. One large firm was told in 2014 that the response had not been successfully submitted and therefore they would not be granted a contract. Upon production of the video evidence, the LAA backtracked and a contract was awarded.

Browser

The IFA is silent about which browsers are supported by the Bravo system. However, Bravo at <https://legalaid.bravosolution.co.uk/esop/common-host/public/browserenv/requirements.jsp> suggest that the following browsers are supported:

* Internet Explorer 11 (previous versions are not supported)
* Google Chrome
* Mozilla Firefox (ESR) 45+
* Safari 10 for MacOS

**ANNEX 1**

**DG Legal Summary of ITT information for applicants document**

**SUMMARY OF ITT INFORMATION FOR APPLICANTS DOCUMENT**

**Precis of the Information for Applicants document**

This paper is a summary of the Legal Aid Agency’s (LAA) information for Applicants (IFA) document but also includes some observations (in italics) from the team at DG Legal. The full document can be downloaded from: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/645817/2018-f2f-itt-information-for-applicants.pdf>

Our precis should not be relied upon and is no substitute for reading the source material.

**Timetable**

Current providers will be aware that the indicative timetable is simply that. The LAA usually change the timetable to allow for errors and omissions. The Contract Start Date though is least likely to change. The current timetable is:

|  |  |
| --- | --- |
| **Activity** | **Timescale** |
| Procurement process opens and available via the LAA’s e-Tendering portal  | 19 September 2017  |
| Final date for submission of questions about this procurement process  | **23:59 on 19 October 2017** |
| Final ‘Frequently Asked Questions’ document to be published  | W/C 30 October 2017 |
| **Deadline for submission of Tenders**  | **17:00 on 10 November 2017** |
| Outcome of Tenders notified  | Housing, Debt & Welfare Benefits – January 2018All other categories – March 2018  |
| Final deadline for submitting Tender verification  | 20 July 2018  |
| **Contract Start Date**  | **1 September 2018**  |

**Section 1: Introduction and Background**

This is an introductory chapter providing information about the LAA and setting out the background to the tender.

The contracts are due to last for 3 years with the ability to extend for a further 2 years.

*However, past experience (with both civil and crime contracts) is that the LAA in practice can and do extend for an even longer period of time.*

The IFA seeks to invite tenders for:

Family; Housing, Debt and Welfare Benefits; Immigration and Asylum (including work at Immigration Removal Centres (“IRCs”)); Mental Health; Community Care; Claims Against Public Authorities (formerly known as ‘Actions Against the Police etc’); Clinical Negligence; Public Law; Family Mediation.

In previous tender rounds, a high number of organisations have changed legal status after submitting the bid but before the contract start date. **For the first time, the LAA will not allow organisations to change legal status between the date that the tender is submitted and the contract start date.**

As with previous tenders, applicants must tender as the entity it will be with effect from the Contract Start Date.

By submitting a tender, an organisation is committed to delivering all of the contract work tendered for.

**Lots**

* 1. Lots will apply to the Categories of:
	2. Family; Housing; Immigration and Asylum; Mental Health; Community Care; Public Law; and Claims Against Public Authorities (formerly known as Actions Against the Police).
1. For Debt, Welfare Benefits, Family Mediation and Clinical Negligence, Lots will not apply and Applicants will not be required to tender for a specific Lot. Successful Individual Bids within these Categories will be awarded a fixed allocation for the first year of the Contract.

**Section 2: Procurement Process Requirements**

*Generic Requirements*

In order to participate, applicants must submit a completed Selection Questionnaire (SQ) – previously known as a Pre-Qualification Questionnaire - and one or more Invitation to Tender (ITT) bids.

Applicants must hold the SQM or the Lexcel Practice Management Standard.

The paper elsewhere also states that authorisation to practice from a relevant professional body (e.g. the SRA) must be achieved.

Applicants must provide evidence of the above 6 weeks before the contract start date.

*Basic Supervisor Requirements*

Generally, an individual supervisor is not allowed to supervise more than two offices. For Mental Health, a supervisor may not supervise across more than 2 procurement areas. For Family Mediation, there is no limit on the number of offices supervised.

*Category Specific Requirements*

Requirements covering offices, authorised litigators, accreditation, delivery plans and supervision arrangements are covered in various areas in this section. These are summarised in the box below.

**Category specific requirements**

| Category | Office | Authorised Litigator (AL) | Accreditation | Delivery Plan required? | Supervisor Rules |
| --- | --- | --- | --- | --- | --- |
| Family | Permanent presence for each office | NA but given that most family work is reserved an AL is necessary in practice | If bidding for Lot 3, must have a member of staff on the Children Panel or Advanced Family Panel or a Resolution Accredited Specialist in Domestic Abuse | If bidding for above Lot 3 where the applicant has not delivered the same level of matter starts in the last 12 months | Employ 1 FTE1:4 ratio |
| Housing & Debt  | Permanent presence for each office | At least one Part Time Equivalent AL across the organisation or one per office if bidding for Lot 2 or above | NA | If bidding for above Lot 2 where the applicant has not delivered the same level of matter starts in the last 12 months | Employ 1 FTE1:4 ratio |
| Welfare Benefits(Note that a Housing & Debt contract must be sought in order to bid for Welfare Benefits) | Each Office must be a Permanent Presence | Must have access at all times to an AL with experience of WB | NA | If bidding for more than 250 matter starts where the applicant has not delivered the same level of matter starts in the last 12 months | Employ 1 PTE1:2 ratio |
| Immigration & Asylum | For each Procurement Area in which it tenders, the Applicant must have an Office in an Access Point which is a Permanent Presence. They may additionally deliver services from further locations in the wider Procurement Area which are either a Part Time Presence or a Permanent Presence | Not for Lot 1. But a AL would be necessary for Lots 2 & 3 | If bidding for Lot 3 or above Lot 3, an advanced (Level 3) caseworker must be employed. | If bidding for more than 300 matter starts where the applicant has not delivered the same level of matter starts in the last 12 months | Employ 1 FTE1:4 ratio |
| Mental Health | The Applicant must tender to deliver Mental Health Contract Work from an Office which is a Permanent Presence in England and/or Wales. Applicants do not need an Office which is a Permanent Presence in each Procurement Area but must have at least one Office which is either a Permanent Presence or an Alternative Arrangement in each Procurement Area in which they deliver Mental Health Contract Work | Yes, an AL is required with experience of MH work for each of the areas it is bidding for | At least 1 FTE accredited member for each area it is bidding for Lot 1.For Lot 2, a firm would need at least 2 FTE accredited members for each area.For Lot 3, a firm would need at least 3 FTE accredited members for each area.If bidding above lot 3, must have at least 4 FTE members of the MH accreditation scheme | If bidding above Lot 3 (more than 500 matter starts) where the applicant has not delivered the same level of matter starts in the last 12 months | Employ 1 FTE1:4 ratio |
| Community Care | Each Office must be a Permanent Presence | Yes, a PTE AL is required with experience of CC work for each of the areas it is bidding for | NA | If bidding for more than 100 matter starts where the applicant has not delivered the same level of matter starts in the last 12 months | Employ 1 FTE1:4 ratio |
| Clinical Negligence | Each Office must be a Permanent Presence or a Part Time Presence | NA | Panel Membership | NA | Employ 1 PTE1:2 ratio |
| Public Law | Each Office must be a Permanent Presence or a Part Time Presence | Must employ a PTE AL with experience of PL who is available to each of its offices | NA | If bidding for more than 30 matter starts where the applicant has not delivered the same level of matter starts in the last 12 months | Employ 1 PTE1:2 ratio |
| Claims Against Public Authorities | Each Office must be a Permanent Presence or a Part Time Presence. | Must employ a PTE AL with experience of CAPA who is available to each of its offices | NA | If bidding for more than 60 matter starts where the applicant has not delivered the same level of matter starts in the last 12 months | Employ 1 PTE1:2 ratio |
| Family Mediation | The Applicant must have an Office in England or Wales that meets the requirements of the Family Mediation specification. The Applicant may tender to deliver Family Mediation Contract Work from additional Outreach locations | NA | Must employ at least 1 mediator who holds Family Mediation Council Accreditation | NA | May use an external supervisorNo ratio |

**Section 3: e-Tendering System**

As with all previous tenders in recent memory, all submissions must be made using the Bravo electronic system at: [www.legalaid.bravosolution.co.uk](http://www.legalaid.bravosolution.co.uk)

Once Applicants have completed their responses to the Organisation SQ and each of the Individual Bid ITTs they wish to respond to, they must submit their Tender by clicking on the “Submit Response” button within each of the ITTs.

The Organisation SQ must be submitted first as it is not possible to submit a response to an Individual Bid ITT until a response to the Organisation SQ has been submitted.

Important: The e-Tendering system, however, will not prevent an Applicant from submitting a response to the Organisation SQ without an Individual Bid (a response to an Individual Bid ITT).

Applicants may amend and re-submit their Tender at any time up to the Deadline. If amended and re-submitted, only the latest Tender submitted shall be assessed. It is the Applicant’s sole responsibility to ensure that its Tender is fully and accurately completed. The Applicant must ensure that information provided as part of its response is of sufficient quality and detail that an informed assessment may be carried out by the LAA.

**Section 4: Completion of the Tender**

This section repeats the point that a submitted tender must consist of a completed SQ and one or more ITTs.

**Section 5: Applicants’ Questions**

Any questions about this tender can be submitted via the Bravo portal until 23:59 on 19 October 2017. The replies to these questions could be published at any time although in the tender timetable they are specific that a final FAQ document shall be published in the week commencing 30 October 2017.

*Note that this is the only mechanism for asking questions and any queries directed to Contract Managers will not be answered.*

Important: In the past, the LAA has been criticised for not answering questions but instead referring questioners back to the IFA document. It is therefore crucial to frame questions very clearly and if applicable make clear that the relevant section of the IFA has been checked.

**Section 6: Tender Assessment**

The SQ will be assessed first. If this is passed, the LAA will then go on to assess each ITT that has been submitted. Each postcode submitted shall be checked to verify whether the correct ITT has been chosen.

Where appropriate, the LAA shall validate the number of matter starts bid for against its own data where the applicant confirms it has delivered at least the volume bid for in the 12 months preceding the tender.

**Section 7: Verification of Face to Face Contract Tenders**

*Important: In contrast to previous tenders, the LAA do not say that applicants who are able to submit verification information are advised to provide this as part of their Tender. This may be because the recent crime tender was particularly tortuous when it came to submitting and re-submitting verification. It appears that this time round the LAA are content for providers to wait and only submit verification after a contract offer has been made.*

*We would strongly recommend waiting and only submit verification information after a contract award has been made.*

Contract verification is outlined in Annex C and consists of:

|  |  |  |
| --- | --- | --- |
| Verification | Existing Applicant | New Applicant |
| Authorisation to Practise | Applicant’s SRA or BSB or CILEx number | Applicant’s SRA or BSB or CILEx number |
| Quality Standard | Lexcel or SQM Certificate valid until 1 September 2018 | Letter to confirm that the Desktop SQM audit has been passed |
| Supervisor Requirements | Completed supervisor forms | Completed supervisor forms |
| Supervisor Ratios | A Contract Manager will visit the applicant within 6 months to confirm compliance with this requirement | A Contract Manager will visit the applicant within 6 months to confirm compliance with this requirement |
| Permanent Presence | Full address including postcode for the office and LAA account number | Full address including postcode for the office |

Please note that additional verification is required for higher bids which varies from category to category. Areas include delivery plans and advanced accreditation.

**ANNEX 2**

**Matter Starts Lots Table (Source: Pages 10-11 of the ITT IFA)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Category** | **Lot** | **Matter Start value (Matter Starts awarded to a successful****Individual Bid)** | **Delivery Plan may be required?** | **Lot-specific quality requirements?** |
| Family | Licensed Work Only | 0 | No | No |
| Lot 1 | 20 | No | No |
| Lot 2 | 100 | No | No |
| Lot 3 | 250 | No | Yes – additional accreditationrequired |
| Above Lot 3 | Over 250 | Yes | Yes - additional accreditationrequired |
| Housing | Lot 1 | 100 | No | No |
| Lot 2 | 250 | No | Yes – increased Authorised Litigatorrequirements |
| Above Lot 2 | Over 250 | Yes | Yes – increased Authorised Litigatorrequirements |
| Immigration and Asylum | Lot 1 | 150 | No | No |
| Lot 2Note, Individual Bids in this Lot may tender for Detained Duty Advice work at IRCs | 300 | No | Yes – required to undertake full range of work |
| Above Lot 2Note, Individual Bids in this Lot may tender for Detained Duty Advice work at IRCs | Over 300 | Yes | Yes - required to undertake full range of work |
| Lot 3Note, Individual Bids in this Lot may tender for all IRC work – Detained Duty Advice and /or Detained Asylum Casework | 300 | No | Yes – 1) required to undertake full range of work; and 2) additional accreditation required |
| Above Lot 3Note, Individual Bids in this Lot may tender for all IRC work – Detained Duty Advice and /or Detained Asylum Casework | Over 300 | Yes | Yes – 1) required to undertake full range of work; and 2) additional accreditation required |
| Mental Health | Lot 1 | 100 | No | Yes – specific number of accredited representativesrequired |
| Lot 2 | 300 | No | Yes – specific number ofAccredited |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  | representativesrequired |
| Lot 3 | 500 | No | Yes – specific number of accredited representativesrequired |
| Above Lot 3 | Over 500 | Yes | Yes – specific number of accredited representativesrequired |
| Community Care | Lot 1 | 100 | No | No |
| Above Lot 1 | Over 100 | Yes | No |
| Public Law | Lot 1 | 30 | No | No |
| Above Lot 1 | Over 30 | Yes | No |
| Claims AgainstPublic Authorities | Lot 1 | 60 | No | No |
| Above Lot 1 | Over 60 | Yes | No |
| Debt | N/A | 4 | No | No |
| Welfare Benefits | N/A | 30 | No | No |
| ClinicalNegligence | N/A | Notional allocationof 1 | No | No |
| Family Mediation | N/A | Notional allocationof 1 | No | No |

**ANNEX 3**

**Top Tips from the LAA**

1. An ITT cannot be submitted unless the SQ has been submitted first;
2. The SQ and ITT(s) can be edited and saved and the LAA cannot access information until the tender window closes;
3. The SQ and ITT(s) can be submitted as many times as you like and only the last one will be considered;
4. The Bravo helpdesk can limit a registered user’s permissions to read only but the default setting for all users is to be able to edit and submit;
5. Everyone only have to do one SQ (unless they are merging, forming a new organisation etc. and aren’t sure if it will be set up in time, in which case the LAA says submit a SQ and ITT for the current and proposed organisations);
6. In the SQ many bidders provide their individual SRA number rather than their organisation’s SRA number;
7. In the SQ bidders are asked to describe their legal entity – along with the usual options there is now ‘Third Sector’ and there is an ‘Other’. ‘Other’ requires bidders to provide more information. Some NfPs will choose ‘Third Sector’ and others will chose ‘Limited Company’ and there is different information required for each – like an indemnity. These are not assessment criteria but are used by the LAA for identification and verification purposes;
8. The SQ and ITTs are designed to capture all the information the LAA needs without the need for document uploads – no verification information is required for example and will be sought later;
9. The first time the SQ and ITT(s) are submitted all registered users will receive a notification – they won’t if subsequently resubmitted;
10. Bidders need to be careful when inputting office and procurement area details - if these don’t match the contract will be offered in the procurement areas and bidders have two options: (1) set up an office in the procurement area (note special rules for Mental Health as only 5 procurement areas) or (2) decline the contract. The LAA does not seek to iron our discrepancies in terms of office locations during verification;
11. There is potential for confusion in the ITT when asked to enter office details if you have multiple offices. The system asks for your main office location (procurement area), then asks if you will be bidding from another office, then asks for the address of office 1 – potential for confusion as some might then put office 2 details here;
12. Bidding above Lot 3 will require a Delivery Plan – all of which is added within the ITT rather than through a document upload. If the DP is rejected the bidders will receive a contract for Lot 3;
13. The forms don’t autosave as you go along so users should save regularly.