

2010 Civil & Crime Contracts Pre-Qualification Questionnaire Frequently Asked Questions

1. I am just setting up a new organisation and haven't yet registered with a regulatory / representative body. Do I need to do this before I can apply?

No, if you have not yet set up your organisation you should answer 'other' and then indicate in the PQQ which body you will be regulated by.

More generally, information about how to apply if you are a new organisation is contained in the Information for Applicants paper for both crime and civil contracts.

2. Is there any guidance on how to complete the Applicant Information Form? I would like further information e.g. how you define gross profit, net profit etc.

We have produced a guidance note that is available on our tenders homepage at www.legalservices.gov.uk < CDS < tenders < crime contracts for 2010. This guidance notes are located on the top right side of the page and similarly for those participating on the civil webpage at www.legalservices.gov.uk < CLS < tenders < civil contracts for 2010.

3. Do I have to complete an Applicant Information Form? What will happen if I don't? Why is there a further requirement for Organisations that are Solicitors to provide information as to our accounts to the LSC? If the amount of profit, asset ratio etc is not an essential or desirable criteria why do you need to know the amounts?

The PQQ also asks for information about financial sustainability and equalities and diversity through an Applicant Information Form. This information is not assessed (and the form is non-mandatory at the time of submitting the tender), although we may use the financial sustainability information to inform future contract management. However, if you are awarded a contract following assessment of your tender, we will require you to provide this information as part of the terms of the contract.

This information is set out in the crime IFA at paragraph 10.27 and 10.28 and the civil IFA at paragraph 9.30.

4. Do I have to complete a PQQ for every tender or for every office?

For a tender to be considered complete it must include a response to both the PQQ and the relevant ITT. However, the PQQ is generic across the applicant organisation and only one PQQ must be submitted per organisation. At the closing date for each tender we will extract the latest PQQ held in the system and that will be assessed accordingly.

5. I completed a PQQ for the immigration tender but that PQQ has now closed. Do I need to complete the new PQQ as well if I want to apply for a contract for another category as well, e.g. Crime?

If you submitted a PQQ for the immigration tender and your details have not changed, you do not need to submit a new PQQ. We will use the information previously submitted and held in the system to assess your subsequent applications. If your details have changed you should complete a new PQQ, but your responses from the previous PQQ will be pre-populated into the new form. You should amend accordingly and re-submit the response for it to be considered alongside your response to the relevant ITT(s).

6. On the not for Profit Application form for equality information, please define the terms Key Personnel and Legal Executives

The definition of “Key Personnel” can be found in both the Crime and the Civil IFAs’. It means any person who has powers of representation, decision or control of an organisation including partners, directors, members (for LLP’s) and trustees.

The term “Legal Executives” is not defined in the IFA but means fee-earners who are fellows of and regulated by the Institute of Legal Executives.

7. Do I include non-employed people who do work for me (e.g. accountants/agents etc) in the equalities monitoring section?

No, you should only include the details of those who are actually employed by you on this section of the form. This does not include those who perform consultancy services for you, e.g. external accountants, agents etc

8. I already hold the SQM. Do I need to attach my office manual

No, if you already hold the SQM you do not need to attach your office manual to your PQQ response.

9. I have the SQM at my current 3 offices but want to open a new office, do I need to apply again for the SQM for that office and attach my office manual?

No, the SQM is now an organisation-wide Quality Mark.

10. Questions 7, 8 and 15 of the Key Legislation section do not provide for a sole proprietor who is not planning on employing staff to comply as they would not need policies but describing this as 'Not Achievable' will not be accurate either

Does this mean that pointless and never to be used policies are required to comply?

Questions 7, 8 and 15 of Section 6 of the PQQ require Applicants who are, intend to be, employers to have, or commit to having in place, various written policies in compliance with key legislative requirements.

As a sole proprietor, you should answer 'Yes commit to have in place' to these questions to confirm that, were you to become an employer at any point during the life of the Contract, you will put these requirements in place.

11. In the PQQ one of the requirements is that the firm is not to have had a public contract terminated through fault. If you have had a contract terminated having received a Category 4 peer review which was confirmed on appeal, does this class as terminated through 'fault'? If so what does this mean? As the question is in the PQQ does it mean that if we have had a contract terminated then we fail all the PQQs we submit?

We have always been led to believe that the termination of a contract would not adversely affect an application for other contracts and that it would just prohibit the firm from applying for one in that area of Law.

Simply put -

- 1. Does losing a contract through failing peer review class as 'fault'?**
- 2. If we have had a contract terminated via 1 above in any area of law, will we fail in our application for contracts in other areas?**

Yes, losing a contract through failing peer review is classed as a fault termination. Any such termination will generally preclude you from successfully tendering for a contract with the LSC in other areas, though you are able to supply information relating to exceptional circumstances if you believe these to be present.

Update 23.02.2010

These circumstances are distinct from an applicant organisation that has previously received a peer review rating of 4 or 5 which resulted only in a particular category of law being withdrawn. Unless a notice to terminate the whole contract was issued (as opposed to category withdrawal) the organisation will not be penalised in their application at the PQQ stage.

It should be noted however that there are category specific requirements in individual ITT's which must be met when applying.

- 12. Terms & Conditions para 12.19. states that: The person who submits a tender must be a member of the Applicant Organisation's Key Personnel with appropriate authority to submit a tender for the applicant organisation. Can you please clarify the technical process we must follow here. Does a member of Key Personnel (i.e. a partner) have to create their own login and complete all the forms themselves, or is it ok to have another member of staff do all of this under their own login, have the member of Key Personnel check it over and tick the box to confirm that they have authority to submit the tender, and then publish using the other member of staffs login?**

The tender must be submitted by a member of key personnel, therefore the arrangement described would not meet the requirement (IFA ref).

- 13. What is meant by over payments. Does this include a one off mistake on monthly submission for approx £200 which was rectified in the following months submission or does it relate to requests for money following an audit or on assessment etc**

Relevant overpayments are those where a written request has been made by the LSC for payment to be made following an overpayment on an account.

- 14. Our firm has had problems with payment of tax over the last 2-3 years as a result of the economic down turn. Steps have been taken after discussions with HMRC to bring the payment up to date. By the time that the PQQ is submitted the payment will be up to date. How is this likely to affect the firms prospects for obtaining a contract.**

Provided the debt is discharged by the time the PQQ is submitted then there is no issue. If the debt is not discharged, you must tell us this at the time of your application.

15. Your form 'PERSONAL GUARANTEE AND INDEMNITY DEED OF AGREEMENT – COMPANIES' has space for only five signatories. Is there a version available with space for more?

Yes. If you send us a request via the message board we will arrange a suitable copy to be emailed to you.

16. I have had adverse findings by our representative body against my organisation. What information should I include about this and how will it be assessed?

LSC will treat all applicants reasonably when assessing whether the details of exceptional circumstances provided by applicant organisations in relation to individual PQQ questions to determine whether the applicant organisation meets our minimum standards of suitability for a publicly funded legal aid contract. We will consider, for example, the length of time that has expired between now and any upheld complaints, sanctions, and adverse findings, as well as the scale of any sanction applied. Applicant organisations are encouraged to provide as much detail as possible in relation to their exceptional circumstances in order that the LSC can make a determination as to whether the Applicant organisation meets the PQQ requirement. There is a right of appeal if applicant organisations are assessed as having failed either the PQQ or ITT

17. My firm is planning to change status through a merger. However, we will not have completed the merger by the time the tender closes. Should I apply under the auspices of my current organisation or the merged organisation?

If the merger has not been completed by the close of the tender period, you should apply as your current organisation and, if successful, then seek to have the contract novated to the new organisation. This principle also applies where you are seeking to change status, for example from a partnership to LLP status.

18. Do convictions include speeding matters for the purposes of the PQQ response?

Yes, you must provide details of any criminal convictions other than those deemed spent.

Update 02.03.10

The LSC requires all criminal convictions, other than minor road traffic offences (which includes speeding and parking offences) and those which are spent, to be disclosed. Where you are unsure whether a criminal conviction is to be disclosed to us, please provide us with details. We will assess the details provided on an individual basis

19. Does the information I provide in respect of Key Personnel and the financial details have to relate to the whole organisation or just to the legal aid section of the business?

You should complete the Applicant Information Forms in relation to your whole organisation.

20. The Duty Solicitor Route Form (for supervisor standards) asks for my four digit PIN number. My number is not four digits?

Just enter your actual number even if it is a digit less or more than four.

21. In the Applicant Information Forms you ask approximately what percentage of the Applicant Organisation's caseload is publicly funded through CLA/CDS? Is this by reference to number of cases or the value of the cases?

Please answer this question with regard to the value of the cases and not the number of cases.

22. In terms of Professional Negligence claims and the requirement to disclose claims made in the last 3 years, when does time start to run? From when the negligence occurred or when the issue became the subject of a claim?

The question in the PQQ asks for details of claims made in the last 3 years, therefore you should give details of all such claims which are made in the last 3 years, irrespective of when the incident giving rise to the claim occurred.

23. Can you please confirm whether firms are required to have Public Liability Insurance in place, or is this optional?

The LSC PQQ requires that applicant organisations can demonstrate that they have appropriate insurance in place to protect them, their employees, and the public and to offer effective financial redress to clients.

If you do not have or do not commit to having Public Liability Insurance you should answer appropriately in the question, and then outline your reasons for this position as exceptional circumstances in the box provided.

24. Could you please confirm whether a monitoring visit by the practice standards unit of the SRA constitutes an investigation for your purposes?

The SRA conduct monitoring visits on a random basis from time to time, but also as a follow up where previously investigations have taken place. If your monitoring visit was not as a result of a previous investigation you do not need to disclose it to us. If however it was a follow up to an investigation you should provide the details of the investigation as required by the relevant PQQ question.

25. With regard to the 'Complaints' and 'Professional Negligence' questions, can you please explain what is meant by 'sanctions'

"Sanctions" adopt its ordinary meaning. If providers are unsure whether they have received a sanction then they must provide details of this in the exceptional circumstances box provided in the PQQ.

26. When answering the relevant questions in the PQQ, do I only give information relating to areas of law where public funding is available within our Practice i.e under a contract, or where public funding is available generally irrespective of whether we hold a contract?

Where we state 'you are only required to give details of complaints made in relation to any category of law for which public funding is available, irrespective of how the work was funded.', you should provide details relating to categories of law for which public funding is available irrespective of whether your firm has ever held, holds or is applying for a contract to deliver that category of law

27. Does a request for repayment include requests for information made as part of the general UPOA exercise where one result of providing that information may have been to recoup payments on account made on closed matters?

We regard a written request for payment to be a formal request to you issued by us (or any other public sector body) which includes specified sums to be repaid and specified deadlines by which those payments should be made.

This may be as a result of a UPOA recoupment exercise by us, but would not, for instance, include the initial request for information regarding the status of cases against which our records show unrecouped amounts.

Failure to make the specified payments by the specified dates on the terms of the any written request would then be classed as a failure to repay.