

Civil Bid Rounds
Frequently Asked Questions

(Questions submitted up to and including 14 November)

Version 4. Updated 15.11.07

Note: (14 November 2007)

This FAQ document contains further questions in relation to the Mental Health bid round only –(Question 48 onwards) the final date for submitting questions was 14 November 2007.

As a reminder, the final date for submitting tenders to deliver Mental Health services is **4pm on Wednesday 28 November 2007.**

Note: 7 November 2007

Please note in particular the information below regarding:

- **Remote hospitals and the mental health civil bid round; and**
- **Subcontracting.**

Remote hospitals and the mental health civil bid round

The hospitals that will attract Remote Travel Payments have not yet been decided upon, while we continue to review provision of services.

Providers who intend to bid for extra matter starts in the current bid round - including in relation to 'Priority' hospitals - should assume that these matter starts will not attract Remote Travel Payments.

The LSC will publish a further statement on Remote Travel Payments in December 2007.

Clarification on issue of sub-contracting

Following a number of related queries, we wish to provide further clarification on what will be acceptable in terms of bidders wishing to bid on the basis that they will not

carry out all the work in their tender themselves. This should be read as a revised answer to Question 29.

The terms of the Unified Contract are based on the Commission contracting with one single legal entity, which undertakes itself to do all Contract Work under that contract. This means that all the rights and liabilities under that contract for all the Contract Work remain at all times with that single legal entity.

The Unified Contract prohibits sub-contracting without our prior authority.

In terms of this tender round for additional services, we have said (Question 10) that we will only contract with a single legal entity. This continues to be the case, and we would also like to clarify that we would not accept any arrangements under which the single legal entity:

- refers clients or passes work to another organisation by way of a subcontracting arrangement, with the effect that the clients become clients of the subcontractor rather than the main legal entity
- passes or attempts to pass any of its responsibilities for carrying out work covered by its tender to any other organisation
- arranges for work covered by the tender to be carried out in any place other than at its office or as part of a clearly specified outreach service.

This does not preclude bidders from making arrangements for bringing in new expertise to their own organisation to enable them to provide new categories of law (e.g. by way of recruitment of staff, secondments from other organisations, consultants, agency workers) provided that at all times the bidder remains responsible for delivering all the Contract Work, the terms of the Unified Contract are met, and the client's retainer is always be with the single legal entity.

Note 25 October 2007

Notice of change to IFAs (25 October 2007)

We have now published on our website all the Tender Forms to enable you to submit your tender/s for the services we wish to procure as set out in the eleven Information for Applicants ("IFA").

This is to give you notice that we have made amendments to a small number of individual services to extend or clarify the areas/categories of law for which we are inviting you to tender.

The IFAs affected are:

- *North West*
- *Midlands; and*
- *Reading.*

The IFA are now published with the correct information and we have also published a document entitled 'Notice of changes to IFA' with a summary of the changes.

Question 1:

“I am based in a particular area and I regularly travel to another area to undertake mental health work. I wish to continue to do this and I am concerned that if I do not bid for work, someone else will take my market share, or I will no longer be able to do this work.”

Answer

If you travel from the area you are based in to another area where you undertake mental health work you can continue to do this.

The ‘Invitation to tender’ is for additional work (matter starts and where applicable a license). Therefore if you are a current holder of the Unified Contract, you should only tender if you have capacity to undertake additional work (over and above your current allocation of matter starts) in the locations set out in each individual invite.

Question 2:

“In the IFA for a Community Care Contract there is a requirement that the bid organisation has an "authorised litigator". Does this mean an organisation has to employ an appropriately qualified lawyer, or have in house a process in which they can refer appropriate cases to a lawyer as can happen under a Housing Contract.”

Answer

It is an essential criteria that organisations tendering to deliver services in Housing and/or Community Care must have an 'authorised litigator' in place by the date the service commences.

Our intention is to ensure that organisations can provide litigation services in both these categories of law, so that clients can be represented in court by the same organisation that provided the legal advice.

We have used the term 'authorised litigator' to cover the range of people who are authorised to represent a client at court. You will need to demonstrate on your Tender Form that, by the date the service commences, you either employ an 'authorised litigator', or that you have a formal arrangement in place giving you appropriate access (without the need for referral) to the services of an 'authorised litigator'.

Question 3

“If I want to apply for national family tender as well as the local regional family one - do I have to fill in separate tender forms for each?”

Answer

Yes. The national invitation to tender for family services is targeted at increasing provision across all geographic areas for Domestic Violence and Public law Childcare services and asks for specific essential criterion to be met. You should follow the directions in the IFA and Tender Form, which explain how you should tender for this work.

Regional invitations to tenders may give priority to providers either by specific location or to those who can also deliver a range of SWL services. Therefore an organisation should apply for the work that best represents the type of service it wishes to provide. You should follow the directions in the particular IFA and Tender Form, which explain how you should tender for this work.

Question 4

“Our Organisation already conducts work across two categories of law (debt and welfare benefits) and the bid is for three (debt /community care and welfare benefits) - do we now have to put in a bid for all 3 categories or just the one (community care) that we haven't got”

Answer

All the invitations to tender are for the provision of additional work on the basis that a tenderer can meet the essential and desirable criteria of the service we wish to procure (e.g. specific location, authorised litigator, ‘drop in centre’ etc).

Where an Invitation to tender contains the essential criteria that organisations must tender for at least 3 Social Welfare Law (SWL) categories, you will only succeed in meeting these criteria for this additional work if your tender includes bids for work in at least 3 categories of SWL.

In the example above, the organisation would have to tender for debt, welfare benefits and community care and demonstrate how it meets both the essential and desirable criteria. However, the organisation may consider that its maximum capacity to undertake matter starts in debt and welfare benefits is lower than that for community care.

Question 5

“If I am an existing provider bidding for additional new matter starts (‘NMS’) in Family in my current procurement area will the additional NMS just be added to my existing schedule.”

Answer

Yes. We would issue an amended schedule to reflect the increase in NMS. The schedule would also reflect any other criteria against which the NMS had been awarded.

Question 6

“Will the additional new matter starts then be carried forward to my new schedule after 1st April next year?”

“Organisations may need to make significant investment in new staff and premises so are there any guarantees that additional matter starts beyond the maximum offered in this tender are available for subsequent years?”

Answer

This additional work will be granted under the terms of the Unified Contract, which is due to expire on 30 March 2010 (unless it is lawfully ended or extended before then).

Therefore any additional matter starts will be carried over to the new Contract Year (April 08 – March 09) subject to the terms of the Unified Contract.

The numbers of matter starts available to tender for is based on a twelve-month period (in accordance with the Contract Year in the Unified Contract (1 April – 30 March)).

E.g. The ‘Invitation to Tender’ states there is a maximum of 400 matter starts available in family.

Organisations should tender for the number matter starts (up to the maximum of 400) which it can deliver over a twelve-month period.

If an organisation successfully tenders for all 400 matter starts, it will be granted in this Contract Year (1 April 07 – 30 March 08) those 400 matter starts pro-rata, i.e. if the services commences on the 1 January 2008 the Schedule will contain 100 matter starts. However, the Schedule from 1 April 2008 will contain 400 matter starts subject to the terms of the Unified Contract.

Question 7

“The Information for Applicants documents states as an essential criteria that ‘Organisations must be able to deliver a full range of advice (legal help to full representation) in accordance with the terms of the Unified Contract in:

Family;

and/or

Three or more categories of Social Welfare Law

As I understand it full representation is defined as ‘a grant of Legal Representation other than Investigative Help’. (LSC Manual 3A – 004). Legal Representation allows a client to be represented in civil proceedings i.e. it authorises the conduct of litigation and the provision of advocacy services. You must be an ‘authorised litigator’ to conduct litigation, so unless you have an authorised litigator you cannot offer your clients full representation.

Does this then mean that an advice agency without a solicitor can’t tender for SWL?”

Answer

It is an essential criteria that an organisation tendering to deliver services in Housing and/or Community Care must have an 'authorised litigator' in place by the date the service commences. This is because these are the categories where litigation is most likely to be necessary as a means of delivering a successful outcome for the client.

In the other SWL categories whilst organisations will need to be prepared to deliver the full range of services, we do not require an authorised litigator to be in place as part of the essential criteria.

Question 8

“I would be most grateful if you would please confirm to me what the precise position would be if a new firm applies and is successful in obtaining the SQM and successful tendering for Specialist Family work (Domestic Violence and Public Law Children). Having read the documentation some of it appears to suggest that the only work the firm would be authorised to do is public law children matters, in other areas it suggests this is not the case and that the firm will be licensed to carry out all aspects of family law and indeed will be expected to do so.”

Answer

It is an essential criteria that an organisation tendering to deliver services for this work must be ‘able and willing to deliver services across the whole range of work in the family category of law’.

An organisation that meets all the essential criteria will be awarded a contract, which will permit them to undertake both controlled and licensed work services in:

- *Specialist area of domestic violence and/or public law children; and*
- *All other areas of family work.*

Question 9

“What happens if an organisation is awarded a contract and is unable to get the service up and running within 12 weeks?”

Answer

Where this is a criteria, you will be asked to confirm on the Tender Form whether you will be able to provide the service within 12 weeks from the date the contract is awarded.

It will then become a condition upon which the contract is granted that you must have the services in place within 12 weeks.

If you fail to meet this condition (or any other condition) specified by us and on which we grant the contract, then the contract will terminate on:

(a) the date specified in the condition; or

(b) if no date is specified in the condition, on such date as we may specify.

Question 10

“ Can I submit a joint bid with another organisations”?

Answer

We appreciate that organisations may wish to join together or expand to put in tenders, e.g. if you think you are better able to meet our requirements that way.

We have no objection to this but at the present time, we only wish to contract with a single legal entity for the purposes of providing these advice services.

If you want to join up with others to form a new single legal entity to provide the advice services required, we shall not require you to do this before putting in your tender.

However, you would need to confirm to us in writing at the time you tender that this is the case, and confirm that should you be offered a contract the single legal entity will be in place before the date on which the services commences.

Question 11

“Would the LSC please confirm that the current Supervisors Self Declaration forms are the ones we are to use as part of our bid tenders? Would you also please make these word documents so that they can be word-processed or else confirm that you are willing to accept hand written supervisor self-declaration forms, as at present these are PDF "read only" forms.”

“Where can I find the self declaration forms?”

Answer

We appreciate that the documents are in PDF format and will look to include them in word format in future. In the meantime, we shall accept handwritten Supervisor Self-Declaration Forms to be submitted with your tender.

Forms can be downloaded from our website www.legalservices.gov.uk following the link CLS> Quality and Performance>Specialist Help (see related documents).

Question 12

“Please can you explain the process and timetable for dealing with questions relating to the tenders. There is only a very limited amount of time for firms to submit tenders. The tender application forms have only just been posted on the website. We are told that queries must be posted by 30th October. In particular, can you explain when the responses to questions will be posted, and will these responses be updated as more questions are received, especially since the responses may well lead to further questions (as was the case in the tender process for the VHCC panel).”

Answer

All questions submitted to the email address shall be answered individually and the all answer will be published in our document entitled “Frequently Asked Questions”. The final date for submitting questions is 30th of October and the final date for publishing all the answers is the 6th November.

However, as we are now accepting questions up to 5pm on Monday 5 November, we anticipate that the final FAQ document will be published on either the 6 or 7 of November.

Question 13

“Could you please tell me as a matter of urgency if the SQM requirements are for a SQM qualified in each category?”

So, three SQM qualified supervisors for each category or could say the family SQM qualified supervisor qualify for the other categories i.e. Debt/Housing/Community Care”

Answer

Organisations must have an adviser who is an SQM qualified supervisor in all the categories of law in which they intend to deliver services in. For example, an organisation would not meet the essential criteria and be able to undertake Housing work unless it can demonstrate it has an adviser who meets the SQM standard.

Similarly, if you are bidding for Debt or Community Care you must have a supervisor who meets the SQM supervisor standard in both of these categories of law. Clearly, it is possible that an adviser may meet the SQM supervisor standard in more than one category of law.

Question 14

“Do you need a self-declaration form for all advisers or just the supervisors?”

Answer

You should send in self-declaration forms for each of your advisers whom you wish to be considered as Supervisors.

Question 15

“We propose to bid for work in 3 categories of law. We have a franchise category in Housing and currently conduct the other two areas under Tolerance. The other Organisation that we propose subcontracting with for some of the work has welfare benefits team and also does housing. On the facts could we bid for this work?”

“Are you accepting bids from Consortiums?”

“We are interested in making a joint bid with another SQM provider. They would provide some areas of law and we would provide the others. Is this possible under the rules of the current bidding round and if so how could we make the bid without forming a single legal entity? If there is more than one option please could you state them all?”

Answer

See answer to Question 10

Question 16

“It is clear from the Information for Applicants that the current tender is for additional new matter starts on top of existing provision. Does this mean that if an existing supplier in that area later withdraws from their contract then their remaining new matter starts will also be made available in that area? And if so, will another bid round be necessary?”

Answer

Whilst we will always seek to ensure the continuation of adequate provision where suppliers withdraw from providing publicly funded legal services. It will depend on the particular circumstances at the time of the withdrawal as to whether it is necessary for us to enter into further bid rounds. We would consider among other things:

- *The availability of funds;*

- *The level of access required within the area;*
- *The type of service to be provided; and*
- *Whether existing provision is adequate and meets the needs of the local population.*

Question 17

“Brisol003 “We note that you are look for work in Housing Employment and Debt. We are not clear from the documentation as to whether you are seeking bids primarily for employment as a priority or that Housing and Employment are both priorities and that you would welcome these subjects with either/or debt as an addition subject.”

Answer

It is an essential criterion that you must be able to deliver all three categories of law.

There is no priority for the categories of law in this invitation to tender. However, preference will be given to an organisation that tender to deliver the services in particular locations – i.e. employment across the procurement area of Wiltshire. In addition, preference would be given to an organisation who can deliver both Employment and Housing in West Wiltshire and Salisbury and debt in West Wiltshire.

Question 18

“When will the list of those hospitals which qualify for distant travel supplements be published?”

Answer

The final Mental Health Specification is currently being finalised. It is anticipated that this, and clarification on those hospitals which may qualify for remote travel payments, will be available in the next few days.

N.B. Please see the section entitled ‘Remote hospitals and the mental health civil bid round’ at page 1 of this document for an update on this issue.

Question 19

“The invitation appears to say that the bid must be for all 3 categories of SW law i.e.: Employment, Debt and Housing. Please confirm that my understanding is correct - that you cannot bid for just one of the 3 categories. If so is it therefore correct that the only organisation that can bid is one which can

provide a litigation service in housing as well as advice services in the other 2 categories?”

Answer

Where an invitation to tender states that tenders must be for a minimum of 3 categories of SWL in order to meet the essential criteria, then providers must be willing and able to deliver services in all three categories.

It is an essential criteria that organisations tendering to deliver services in Housing and/or Community Care must have an 'authorised litigator' in place by the date the service commences.

Question 20

“Could you please clarify the position in relation to IFA for Mental Health. It states the region with which priority hospitals require legal services. In the form it asks which of the hospital's we would like to provide our services, if I were to apply my intention would be to provide services to all those hospital (and more), so is it just a case of copying all the hospital's in the IFA on my tender form and listing the others.

Also, you ask in the tender form how many matter starts would we be able to handle. Again, for me to obtain a franchise and make maximum use of it, I would say all matter starts available. Is this the correct view, or could you provide clarification please.”

Answer

If you are tendering to provide services in all of the hospitals listed in the invitation to tender you should ensure all these hospitals are listed on the Tender Form.

You should state on your Tender Form the minimum and maximum matter starts your organisation can undertake up to the maximum of matter starts we wish to procure. E.g. In the East Midlands there are 390 matter starts available. Therefore your capacity will be between 1 and 390.

Question 21

“What exactly is meant by must have an authorised litigator - does it mean that a potential provider must directly employ a solicitor to be able to submit a bid, or does it mean that a sub-contract, or other, arrangement may apply whereby a potential provider may reach agreement with another firm to refer an eligible client to a solicitor where this is appropriate to the circumstances?

If the latter applies, what governance arrangements and protocols would be required to ensure:

a) Transparency for financial arrangements between the provider and

solicitor, and

b) What accountability arrangements would need to be established to ensure that the client is clear as to who has responsibility for the support they are receiving?"

Answer

See answer to Question 2

Question 22

"Is the requirement to deliver advice in 3 categories of law restricted solely to the specific categories listed the criterion? Is there any flexibility to extend the 3 categories to others (e.g. debt) that are not included in the Criterion?"

If the 3 categories of law are restricted exclusively to those listed in the criterion, the effect is likely to discriminate against local providers most of which only provide advice in one of the categories listed in the criterion. Consequently, the criterion acts as a bar to a number of local providers from submitting bids as they will not meet this requirement unless they bid for two categories of law, which would appear be unlikely.

It is apparent that the above two criteria, as currently applied, are likely to discourage a number of local providers from submitting bids and this appears to run counter to the aims of the tender exercise which are to stimulate interest in increasing capacity, presumably without excluding local providers."

Answer

All the invitations to tender are for the provision of additional work on the basis that a tenderer can meet the essential and desirable criteria of the service we wish to procure (e.g. specific location, authorised litigator, 'drop in centre' etc).

Where an Invitation to tender contains the essential criteria that organisations must tender for at least 3 Social Welfare Law (SWL) categories, you will only succeed in meeting these criteria for this additional work if your tender includes bids for work in at least 3 categories of SWL.

If the invitation to tender does not specifically list a category of law then at this present time we do not wish to procure further services in this category of law. Organisation would have to tender for at least 3 of the remaining categories to meet the essential criteria for the additional work.

Question 23

"Is there any impediment to two or three organisations making a joint bid on the basis that if successful they will form an unincorporated partnership for the

purposes only of contracting with the Legal Services Commission? One of the organisations would report and account to LSC on behalf of the partnership but all organisations - in accordance with ordinary principles of contract law - will be jointly and severally liable to LSC.

Between them the organisations will have the requisite SQMs and all other criteria will be met although of course this is a matter for LSC to decide when getting the bid.”

Answer

See answer to Question 10

Question 24

“When a procurement area is asking for a number of categories of law, but quoting a single matter starts figure, what is the split across categories of law? For example, if the requirement is 300 matter starts in Debt, Welfare Benefits and Community Care, should we assume 100 Matter Starts are available in each category?

Similarly, if a bid round asks for a number of matter starts in 2 locations, should we assume a 50-50 split?”

Answer

Where we have asked for a number of categories of law but have given only a total number of NMS without breaking it down further by category, organisations can bid for up to the total available NMS in any configuration. Whilst no preference will be given at the essential criteria stage, organisations are reminded of the tie break criteria that may give preference to;

Organisations which can:

(a) deliver the services for which they are tendering for in the widest geographical spread of locations within the Procurement Area; and/or

Where we are inviting tenders to deliver services across multiple Categories of Law

(b) deliver the greatest number of Categories of Law

Question 25

“Where a bid round specifies locations for required services within a procurement area, do these correspond exactly to Local Authority Areas? For example, BRIS/005 specifies a need for social welfare law in East Dorset. This is a Local Authority, but other statutory and Community organisations use this term to cover other areas. (e.g. Social Services defines an area that also includes Christchurch and Purbeck).”

Answer

Procurement Areas do not correspond exactly to Local Authority areas but are generally county areas. In some cases they will contain a number of LA areas. In the example you give, East Dorset is a Local Authority area within the Procurement Area of Dorset.

In establishing these procurement areas, a range of information has been used including:

- *existing local government structures;*
- *the nature of the local geography and patterns of access; and*
- *levels of local need and deprivation.*

We have sought to define areas that are balanced between being small enough to be able to reflect local factors that influence demand/supply but large enough to have a large enough volume of work to encourage providers to deliver integrated services within them, therefore some Procurement Areas will cover one single Local Authority (e.g. in London) whereas in others there will be more.

Question 26

“Bid Round BRIS/001 is for 200 matter starts in Community Care in Dorset and Bournemouth & Poole procurement areas. This bid round includes the desirable criteria that the bidder can deliver a region-wide community care service. However, no other procurement areas in the south west are offering community care matter starts. What funding will be available for a region-wide service, and when will this service be required?”

Answer

Where desirable criteria states that preference will be given to providers who are able to deliver a service across a wider area but the amount of NMS are not defined, we will look to make additional funding available dependent on the needs of the local population and the service to be offered. As with other tenders, services should be ready within 12 weeks of the contract having been offered.

Question 27

“Some of the bid rounds overlap. For example, BRIS/001 asks for Community Care in Dorset and Bournemouth & Poole procurement areas, whilst BRIS/005 also includes community care. What is the relationship between the number of matter starts in these cases?”

Answer

The NMS stated within each of the tenders is the total amount available within the specified location.

Question 28

“The tie breaker question for BRIS/001, "Where we are inviting tenders to deliver services across multiple Categories of Law (b) deliver the greatest number of Categories of Law" does not make sense for this bid round. Do we just ignore this aspect of the question?”

Answer

The tie breaker question states ‘where we are inviting tenders to deliver services across multiple categories’. If Organisations are not applying for multiple categories then this part of the question is not applicable.

Question 29

“We may wish to sub-contract one or more areas of law in bids for Social Welfare Law. This would allow us to bring in local specialists who are only able to deliver one area of law. Could you confirm that this is acceptable, and advise what information should be included in the bids?”

Answer

We have no objection to this but ultimately, we only wish to contract with a single legal entity for the purposes of providing these advice services.

NB – please also see the section entitled ‘Clarification on issue of sub-contracting’ on page one of this document

Question 30

“Was there a separate list summarising all the individual opportunities to be published on the website?”

Answer

Each Information for Applicants contains a summary of all the invitations to tender within it. However we have also now published the complete list of invitations at this time.

Question 31

“If a contract is awarded to undertake care proceedings at legal help, is the provider also authorised to undertake the full range of certificated family cases?”

Answer

Yes. Contracts for controlled work in Family also allow an Organisation the right to undertake the full range of civil certificated work (except in those other categories of law deemed under the contract as ‘exclusive’ categories e.g. mental health).

Question 32

“We are in the process of completing a Bid Tender for Mental Health.

We need a little advice on one particular point being Part 2 - Section 1 - Would you provide a link? Would you let us know exactly what you mean by a "link"?”

Answer

A link would be an established and effective referral mechanism with a specialist supplier in Social Welfare Law to ensure the Supplier is able to deliver a service compliant with Section 12.63 of the draft mental health civil specification.

Question 33

“General family matter starts

- **How are you intending directing the work to successful bidders? We would be setting up, perhaps an outreach post in a town where we do not have a presence, and people would need to know we were there and be directed to us. Would the LSC do this via enquiries of them, the telephone advice line, CAB etc or are you just expecting clients to "magically" find us. We assume that due to the low fixed fee rates you would not be expecting us to have a large marketing budget.**
- **If we bid successfully for matter starts out of our current working area (and I don't know your definition of our current procurement area) and then there are no clients would this give us a "red light" in relation to all our other areas of legal aid work?**
- **How does this fit in with CLACs and CLANs?**

Answer

The tenders contain criterion that are specific to the delivery of services within an area where we think that there is a need for further services to meet the needs of local populations.

Generally, preference will be given to Organisations who are either located within the area or as per particular criteria can deliver through a specific outreach venue such as Sure-start etc where client groups are already located.

We do not necessarily expect Organisations to incur further cost in marketing of their services, but rather that they consider how to deliver services at the best point of access for the particular client group to be serviced – e.g. in line with other local community services.

We would also expect an Organisation under the terms of the Unified Contract to set up referral mechanisms with other local providers to ensure clients are able to access services in the most effective way. In addition, clients may be directed to local

providers via the CLS Directory or referred to the most appropriate local provider from the CLS Direct helpline.

For example we have said in some tenders that preference will be given to Organisations who can demonstrate how the service they are tendering for will actually reach the client groups we are aiming to provide the service for.

In relation to CLAC/Ns, we will continue to commission integrated services through both tendering services and the introduction of CLAC/N's . It is not the intention that all family work in an area will be provided through a CLAC/N but rather that the amount of work available will vary according to local needs.

Question 34

Care work

- **What is the definition? Is it just certificate S31 proceedings or all public law children proceedings? And does it just relate to certificate work? What about clients who come for level 1 advice where social services are involved? Is that a specialist matter start?**
- **Again how are these care clients going to know of our existence? Are they going to be referred to us from the courts and cafcass?**
- **Is the LSC going to have a list of children panel members able to undertake work in each procurement area?**
- **Can we bid to do general family work in one area and just specialist care work in another area?**

Answer

(Also see responses to Q31 and 39)

S31 refers to Care and Supervision proceedings..

Levels 1 and 2 are controlled work with NMS awarded. Level 2 is a new level of service from 1 October 2007 and is only available when representing clients with parental responsibility in S31 proceedings. Level 1 is available in all Public Law children proceedings in the same that it has always been.

Care clients are going to know of the existence of providers in the same way they always have done but in addition, we are committed to ensuring Local Authorities and courts are aware of CLS Direct and that they both hold details on all Family providers. Our intention is that when a client is invited in by social services to talk about their concerns, social services will have a list of local legal aid providers, which they will make available to the client.

Regarding bidding to perform work in different areas- see response to Q3.

Question 35

“We are a firm doing both Private law and Public law family matters. We are well placed to take advantage of the offer to tender for additional work and I have been working out a business plan to enable us to bid for a number of additional matter starts in both private and public law. My question is this - are the Matter Starts in Public Law / Domestic Violence limited only to this work? I note the criteria that a firm bidding for public law matter starts must be able to provide family services across the range, which we do. Do I therefore need to submit two tenders - one for additional private law matter starts under tender MID/003 and another for public law under tender National/001 or can I simply submit one tender under National/001 to cover the whole amount of both private and public law matter starts?”

Answer

Further to the answers to Question 3 and 37.

Matter starts in the Family category are not limited to any particular area of family work unless specifically stated. Instead they represent the total number of NMS available within the procurement Area or location across the full range of Family work. (Also see response to question 37).

There are separate tenders for Family services because they are looking to provide different types of services, which require Organisations to meet particular criterion. In the example quoted above, the MID/003 tender will give preference to Organisations who can also deliver 3 categories of SWL. Whilst the national tender 001 will only consider applications from Organisations able to meet the DV/ Public law childcare criteria and willing to deliver family work in these specialist areas as well as across the full range of Family Work.

Organisations should bid to provide the services that best represent the type of service it wishes to provide .In some cases this may mean submitting more than one tender. (Also see response to question 3)

Question 36

“We wish to submit a bid in which we will propose that some of the outreach services will be carried out by another organisation. Clause 2.5 of the Unified Contract prohibits sub-contracting without LSC's prior written consent. What are the criteria by which such consent will be considered? Will the issue of consent be considered after we have put in our bid?”

Answer

Please see the section entitled ‘Clarification on issue of sub-contracting’ at page one of this document.

Question 37

“In the procurement areas that you offer a combination of family and/or 3 social welfare work; is it possible to undertake only general family matters such as divorce, contact and ancillary relief, in the family category and do not

undertake any domestic violence and public (child care) law, plus 3 categories of social welfare?”

Answer

It is difficult to answer your question without knowing which of the procurement area tenders it relates to. Where a tender asks within the essential criteria that Family services must be delivered with social welfare law then tenders will only be considered if these services are to be provided.

Where the tenders state in the desirable criteria that preference will be given to providers who can provide Family plus 3 swl categories, then bids will still be considered from Organisations who do not offer to deliver all categories of law. However, Organisations whose bids meet the greatest number of desirable criteria will be preferred.

In the case of Family matters, all contracted family legal aid providers will be expected to offer the full range of advice services including early legal advice and all providers should be able to offer both public law and private law services.

Question 38

“Is it a requirement under the current civil bid rounds for the "authorised litigator " to be a qualified solicitor? Can you use an experienced caseworker or a retired Barrister to represent clients in Housing Law?”

and

“ I have tried without success to find an up to date definition of an *authorised litigator*. Are you able to publish a full definition under the meaning of the Courts and Legal Services Act 1990 that avoids ambiguity and lists those authorised bodies please? That is, a definition in plain English please.

Answer

(See Also answer to question 2)

We have used the term 'authorised litigator' to cover the range of people who are authorised to represent a client at court.

"Authorised Litigator" has the meaning set out in s.119 (1) of the Courts and Legal Services Act 1990.

That Act defines it as follows:

“authorised litigator” means any person (including a solicitor) who has a right to conduct litigation granted by an authorised body in accordance with the provisions of this Act.

Authorised body means:

“authorised body” and “appropriate authorised body”-

(a)in relation to any right of audience or proposed right of audience, have the meanings given in section 27; and
(b)in relation to any right to conduct litigation or proposed right to conduct litigation, have the meanings given in section 28;

S.27 says:

In this section-

“authorised body” means-

(a)the General Council of the Bar;

(b)the Law Society; and

(c)any professional or other body which has been designated by Order in Council as an authorised body for the purposes of this section;

S.28 says:

In this section-

“authorised body” means-

(a)the Law Society; and

(b)any professional or other body which has been designated by Order in Council as an authorised body for the purposes of this section;

Question 39

“In view of the need to get any new services started, at what stage during the first year of any contract would you expect a supplier to reach the pro rata new matter start targets for a whole year? Would you expect a supplier to reach the NMS whole year targets for the first year?”

Answer

We would expect services to be available to clients within 12 weeks of the Organisation being aware of the contract award. NMS will be awarded on a pro-rata basis in 07/08 with a full year allocation for 08/09 which Organisations would be expected to meet.

Question 40

“note from your response to question already raised in FAQ that ‘all areas of family work’ are included when seeking to tender for ‘Specialist Family Services’. Please clarify whether the number of matters starts we need to bid for should include Public Law matters commencing at proceedings stage rather than initial advice.

In addition please clarify the LSC intention so far as Tolerance matters are concerned with effect from April 2008.”

Answer

Organisations bidding for NMS to deal with Public Law should include both level 1 and level 2 (the old legal help and the new level of pre-proceedings work in the new Care Proceedings scheme). Although we expect providers to conduct the full range

of Family work, matters falling under certificated work are not controlled by a limited number of NMS.

Where Organisations are tendering for Family controlled work (including the National/001 tender) NMS awards will be made in the expectation that Organisations will undertake work across the full range of Family work.

There our approach to using tolerance matter starts remains as it always has. We prefer not to award tolerance NMS but instead to contract with Organisations who are able to provide a specialist service in the relevant category of law. Where we need to award tolerance NMS it is limited to;

- a) increasing access in areas where clients would not otherwise be able to obtain advice*
- b) allowing Organisations a limited number of NMS to develop a caseload and obtain SQM supervisor status.*

Question 41

“Having read the questions and answers I still remain confused and the repeated reference to question 10 does not help. Further question and answer 28 does not answer the issue.

I am interest in BRIS003 and 005.

I provide a specialist Housing Advice and Representation and outreach service.

I do not specialise in all 3 SWL areas.

I understand that “ultimately” you want to contract with one organisation. I understand however that the LSC does not allow sub-contracting and the answer appears to miss the point. I understand that the person advising the client and carrying out the assessment for LHHC must be an employee of the contract holder.

- a) a) Can I put in a bid for either area and state that I will subcontract part of the services to another organisation ?**
- b) b) If so should the bid be put in jointly with that organisation ?**
- c) c) If so does that organisation contract directly with the LSC ?**
- d) d) If not how does the LSC consider the funds will be accounted for.**
- e) e) How long does the LSC envisage “ultimately” to be”**

Answer

Please see the section entitled 'Clarification on issue of sub-contracting' at page one of this document.

Question 42

- “1. Do you expect a supplier to be meeting [pro rata to] the annual new matter start targets immediately on starting a contract? If not,**
- 2. When do you expect a supplier to be reaching [pro rata to] the annual targets?”**

Answer

Please see our response to Q38

Question 43

“We believe we've identified areas which are under resourced within a 25 mile radius of Harlow, Essex and would like information on applying for CLS funding in order to supply free, confidential and impartial advice in Specialist & Generalist areas. Our specialisms are Disability; Financial Inclusion, Social Welfare and Debt.

We have Citizens Advice Bureau backgrounds and due to difficulties with funding / loss of staff at our local CAB these services will be a casualty.

We are investigating forming a charity, in order to provide these services covering this 25 mile radius ... Harlow has a Welfare Rights and Advice Service - they have restriction on assisting Harlow residents only. Harlow is surrounded by much smaller communities / villages who are not assisted under the current system in place at WRAS.

We would like to approach LSC to tender for the CLS contract in these specialisms and would like more information on the tender process.”

Answer

Full details of the tender process including 'information for applicants' and the individual tenders by procurement area can be found on the website at http://www.legalservices.gov.uk/civil/tendering/civil_bid_rounds.asp.

You may wish to consider the tender for the procurement area of West Essex which contains the areas of Harlow, Uttlesford, Epping Forest, Chelmsford, Brentwood, Braintree and Basildon.

Question 44

“Would you kindly clarify what the funding arrangements for the above are to be i.e. Is it to be similar to the new Unified Contracts”

Answer

The funding arrangement for all the additional work will be in accordance with the terms of the Unified Contract – see in particular Appendix One of the Information for Applicants for further information on the terms of the Unified Contract.

Question 45 (question 3 continued)

SO I can apply for a national tender and local tender ie specialist work domestic violence etc

Answer

Yes.

So I can be based in one location and then provide the service in any area ?

Answer

Yes, although you would need to provide us with details of how you intended to deliver the service.

Say Hounslow and any where else ?? IS this 2 tender forms ??

Answer

The tenders are specific to the service being tendered within the Procurement Area and Organisations should provide a separate application for each tender in which they wish to make an application.

Question 46 (question 11 continued)

Still can't find the Supervisor Self-Declaration Forms – not even to copy and handwrite”

Answer

Go to www.legalservices.gov.uk and click on the Community Legal Service (CLS) heading at the top of the page. Then click on the section ‘Quality and Performance’ from the list of subjects on the left hand side. This will then detail a further list of subjects below. You will need to click on ‘Quality Mark’.

From this a further section drops down. Click on 'Specialist Help'. At this point you will see that the documents listed on the right hand side of the page includes 'Specialist Quality Mark Supervisor Standard Self Declaration Forms'.

Question 47

1. Many of the bid rounds specify that preference will be given to proposals that will deliver services as outreach alongside other community services. Whilst we welcome this commitment to deliver services at the most convenient location for clients, outreach services are more expensive to operate, requiring travel and sometimes venue hire. Will the LSC be making payments for outreach costs to cover this?

Answer

We will ordinarily expect services to be delivered within the current funding arrangements.

2. We will be applying for the Midlands and East Regional Community Care contract of 1500 NMS, but note that there is provision in the other 19 bids for procurement of 100 NMS in community care. Would you therefore expect that locations for face to face work under the Regional Contract to 'ignore' these particular procurement areas, given this other provision?

Answer

Yes. Organisations should make an application for each tender separately.

3. In some of the application forms, there appears to be duplication across questions. For example, the tender form for BRIS/005 includes the following questions under Parts 1 and 3 of the desirable characteristics section:

- Under Part 1: "If yes, please submit a detailed plan demonstrating how you intend to deliver the outreach service, including but not limited to proposals for:- Location of outreach- Hours of business- Outreach and other methods for reaching target groups"

- Under Part 3: "If you wish us to consider your tender on the basis of an outreach service please submit a detailed plan demonstrating how you intend to deliver the outreach service, including but not limited to proposals for:- Location of outreach- Hours of business- Outreach and other methods for reaching target groups."

What different information is needed in these questions, and in what ways will it be assessed in each case?"

Answer

You are referring to an invitation to tender, which has two desirable criteria:

- (1) Preference will be given to organisations that would be willing to deliver advice services through outreach venues such as Children's Centres, Health Centre's and other community based organisations; and

(3) Preference will also be given to organisations that are tendering to deliver the service in more than one specified location

An organisation may wish to demonstrate how they can deliver services in more than one location and/or how they will deliver outreach. It is not essential that organisations meet both desirable criteria although we have said that preference will be given to an organisation that can meet the most desirable criteria.

Therefore depending on the service the organisation wishes to tender to deliver they will need to demonstrate in their tender form how they would meet desirable criteria 1 and/ or 3.

Clearly if an organisation wishes to demonstrate that it can meet both essential criteria 1 and 3 they may be some overlap between the information they provide in their plan.

Question 48

(48.1) “In connection with the above is this tender available to a barrister and/or a barrister with a public access certificate?”

Answer

You are not excluded from tendering for this work, however as with all of the tenders you would have to demonstrate how you could meet the criteria and deliver the breadth of work required by the contract in the Mental Health category of law including how you could meet supervisor standard.

(48.2) “Is the tender for the provision of advise only or does it or can also cover representation at hospitals/ mhrt's.”

Answer

It can cover representation at hospitals/MHRTs. See 3.7: “where applicable the Unified Contract may authorise the Provider to undertake representation work in accordance with rules governing legal aid services which are set out in more detail in Appendix A”.

Question 49

“In relation to the tender for Mental Health work, I would be grateful if you would provide clarification on hospitals which have been designated as having significant travel. Where can I find information on hospitals within LSC regions which have been designated as having significant travel?”

Answer

The specific hospitals with significant travel are already named in the IFA and set out by reference to the LSC's regional and Wales offices.

In addition, the map in the Appendix Five to the IFA explains the geographical areas covered by each LSC office.

Question 50

“50.1 - I am a mental health panel member and a supervisor. I have not supervised in the last 12 months and was told that I would need an external SQM category supervisor if I am to continue representing patients in hospitals. Thus, when I submit the Tender form do I also have to submit the supervisors declaration form giving work done by the external supervisor in the last 12 months?”

Answer (50.1)

Yes. If you are to rely on external supervision you must submit with your tender details as to how this arrangement will work and the self-declaration form for the individual who you intend to supervise your work.

“50.2 Form B at P7 & and top of p 9, appears to be asking the same question re locations- can you let me know if I am reading it correctly”

Answer (50.2)

Yes, that is correct – the first part is for us to be able to see in summary the services you wish to deliver. The section on page 9 is where you demonstrate in particular how you meet the criteria.

Question 51

“I currently hold a Unified Contract to undertake Mental Health work; can I just apply under the terms of my contract for more matter starts?”

Answer

The LSC's policy on allocating matter starts to individual providers outside of the bid round remains unchanged. Providers have the right under Standard Term 11.10 of the Unified Contract to apply for an increase in matter starts at any time. The LSC can determine these applications in its absolute discretion and may therefore increase matter starts where it considers it necessary to do so to meet the needs of clients.

Whilst providers should not wait until they have 'run out' to make an application, the amount of matter starts awarded is likely to be limited to the amount necessary to meet client needs, which means that decisions will take into account current running rates. This means that for example, providers whose current running rate does not indicate that they are likely to exceed their allocation, or whose application appears premature, are likely to have applications under Standard Term 11.10 refused.

This contrasts with the position in the current bid round, where we are seeking bids for expansion and extra work, which means that providers are not confined by their current running rate.