



Frequently Asked Questions related to the:

Invitations to tender to deliver publicly funded Immigration Services in England and Wales

Many questions will be answered by the information given in the Information for Applicants document (IFA), which is available through the eTendering portal and on the Tenders pages of our website:

<http://www.legalservices.gov.uk/civil/tendering/immigration.asp>

If you have any questions about the IFA or the Invitations to Tender you may submit them up until **12 noon on 14 January 2010** (note this is referred to as the 'End date for clarification messages') on the eTendering system. All questions must be submitted using the online secure messaging tool within the eTendering System (see Section 9 of the IFA for more detail about eTendering).

Questions that we consider to be of wider interest will be collated and answered centrally in writing to ensure that all interested parties have equal access to information in the answers. These questions and answers will be published regularly in this Frequently Asked Questions (FAQ) document.

A final FAQ document will be published on 21 January 2010.

This FAQ document is broken up into sections for ease of reference. These sections are as follows:

1. Tender Process-
 - 1.a. Access to the Tender Information Form (including queries relating to Macros)
2. Procurement Areas/Offices/Access Points/Presence
3. Supervisor requirements
4. Other quality-related requirements
5. Service and category combinations
6. Consortia
7. [Minimum New Matter Start requirement](#)
8. Capacity test
9. Assessment of bids and allocation of new matter starts
10. Selection Criteria
100. Other requirements

Section 1. Tender Process

1.1 I submitted a question about the IFA through the online messaging tool and haven't seen my answer- when will I receive a response?

We aim to update this FAQ document each Tuesday and Thursday and to respond to all questions in approximately one week. Questions may be submitted up until 12 noon on 14th January 2010 and the final FAQ will be published on 21st January 2010.

1.2 I have submitted my PQQ and my tender to this contract today. Is there any way of knowing whether it has been properly completed or whether there are any fatal errors in the forms or attachments? Will you let me know if I have overlooked anything?

One of the advantages the e tendering system is that Applicant Organisations will not be able to submit a response until they have completed all mandatory fields in the online form. However, there will be no verification of the answers given or verification of the information contained within any of the attachments prior to submission, all that Applicant Organisations will be advised of is whether all mandatory fields have been completed.

Responses to the ITTs are to be treated as sealed bids. This means that the LSC will not open any responses until after the deadline for the tender exercise therefore the LSC will not check to see whether there are errors in forms or attachments. It is the responsibility of the Applicant Organisation to ensure that they have completed all forms and attachments correctly and accurately.

1.3 Given that there is no signature required for the actual SUPP (IMM) form, can the forms be sent in PDF format?

The form which is available to download is in Word format. However, it can be completed and turned into PDF and then uploaded as a PDF, if you prefer. Please note, however, that you will need to complete this new SUPP (IMM) form for each supervisor who is already in place, even if you have previously submitted a form for this member of staff. This is because the form refers to recent experience (over the last 12 months etc) so forms submitted previously will not show how the requirements are met. This means that you cannot scan a previous SUPP (IMM) form and upload that as a PDF.

1.4 We are seeking to apply for a contract in all our offices, which are all within one Procurement Area. Should I submit all the SUPP (IMM) forms for all our offices as one attachment?

Yes. If you are applying for a contract from more than one office within the Procurement Area (PA), you should just submit one form containing details of all your supervisors, and upload that form in your response to the ITT for that PA. If, however, you are applying for a contract from several offices in different PAs, you should complete one response to each ITT for each PA you are interested in, and upload one SUPP (IMM) form for each response to ITT.

1.5 I am going to recruit Immigration Supervisors and caseworkers. Do I have to upload a blank Supervisor Declaration Form, or, since none of the staff are currently employed do I not have to upload the form?

As per section 9.31 of the Information for Applicants, you only need to upload a Supervisor Declaration Form if you already have the Supervisors in place. If the supervisors are not currently in place, you do NOT need to upload a blank form.

1.6 The IFA states that if you wish to apply from more than 3 offices within a procurement area, you must contact the LSC for an additional form. Does this apply to all procurement areas and access points, including London?

For most Access Points, there are only 3 spaces on the "Commercial Response" section of the ITT for applicants to submit information about their offices, so they can only give information about up to three offices. If they wish to apply from more than three offices, they must contact us through the messaging system to request an additional form.

In London, however, there are 10 spaces on the "Commercial Response" section of the ITT, so applicants can apply from up to 10 offices without needing to request an additional form.

1.7 The private sector information form on the PQQ requests information under part 1 financial information. The last two questions in part one request information re gross and net profit (or loss) followed by a "%" character. Please clarify what information you require, as I am not clear what these should be presented as a percentage of

The information required to complete this form can be found in your financial statements from the balance sheet, profit and loss account and notes to the accounts.

Gross Profit

This figure is computed by deducting direct costs from sales or turnover. Direct costs include staff salaries that are directly connected with producing sales, for example, fee earners.

Net Profit

This figure is the gross profit after the deduction of other costs, including administration, premises costs and interest, but before dividends.

Gross Profit (Loss) % and Net Profit (Loss) %

Gross Profit % = $\frac{\text{Gross Profit}}{\text{Sales or turnover}}$

Net Profit % = $\frac{\text{Net Profit}}{\text{Sales or turnover}}$

Turnover

This can be obtained from the profit and loss account and represents gross fees earned from all the business activities

1.8 Please can you clarify the wording of some terms used in the Financial Information part of the PQQ?

NET ASSETS (LIABILITIES) - we do not have assets but work in progress- is this included?

QUICK ASSET RATIO - can you clarify what this is please?

Net Assets (Liabilities):

The net assets figure is found on the balance sheet, this being gross assets less gross liabilities. Work in progress is an asset in the current year's accounts.

Quick Asset Ratio:

The current asset ratio compares total current assets to total current liabilities and indicates whether there are sufficient short-term assets to the short-term liabilities.

$$\frac{\text{Quick / Current Assets}}{\text{Current Liabilities}} = \text{Quick / Current Asset Ratio}$$

1.9 We are in the process of completing our e tender. We have completed the commercial response of the ITT and the section subtotal is nil. We calculate that we should have 30+ points and so please can you confirm if this is a technical fault?

The "section subtotals" are a feature which we are not using and can be ignored. It has been set to stay at 0 when responses are completed.

1.10 How do I save the Tender Information Form so that I can upload it?

The Tender Information Form should be opened (from the Buyer Attachments section of the ITT) and saved to the applicant's own computer system. It can then be completed offline in the applicant's own time. When it is complete, it can then be uploaded into the applicant's response to the ITT within the eTendering system.

Further guidance on how to upload attachments is available in the Technical Guidance section of the eTendering portal:

<https://legalservices.bravosolution.co.uk/web/technical-support.shtml>

1.11 Do all providers who might be interested in any category of law need to complete the PQQ by 28 January, or is this deadline only relevant to those submitting tenders in Immigration?

The current deadline recorded on the eTendering system for completion of this PQQ, (12 noon on 28 January 2010), refers to the deadline for the Invitation to Tender to deliver Publicly Funded Immigration Services in England and Wales **only**.

It does **not** apply to the Invitation to Tender to deliver Immigration Services at Immigration Removal Centres (which has a deadline of 12 noon on 5 February 2010) or any other civil or crime invitations to tender.

Further information on PQQ completion deadlines for both the above Immigration Invitations to tender (or any other Civil and Crime invitations to tender) will be published in the relevant Information for Applicants.

New questions and answers 21 January 2010

1.12 Supervisor Standard and Self declaration Form - What do we have to do to provide confirmation of positive assessment for accreditation requirement as a caseworker and as a Supervisor? Is it just to tick the box and you will then be able to check records, or do we scan in our certificates and send them to you?

The instructions on the online ITT “form” explain what you need to do in order to show us if you meet the Supervision requirements. Further information is available in sections 9.29 to 9.31 of the IFA.

1.13 Section 3 of the IFA sets out the planned timetable and indicates that contracts may be definitively awarded from no earlier than 17 May 2010 and up to “Aug-Sept 2010.” Contract start date is now 14 October. A “census” point exists 8 weeks before 14 October i.e. 19 August, by which time all staff expected to deliver on the contact must be in the employ of the organisation and “evidence” any new premises from which services are to be delivered must be supplied.

This applies, for example, to requirements concerning accredited staff, supervisors and premises.

Given the length of time it takes to recruit staff and make arrangements for premises, can you confirm how this “census” point will work? Do you mean 8 weeks before the contract start, or is it 8 weeks after?

Many requirements refer to certain things being in place by the contract start date, and we will require evidence of this 8 weeks before this date. This is to ensure that services can be up and running as soon as the contract starts.

These contractual requirements do not need to be in place 8 weeks before contract start date, but evidence must be supplied showing that they will be in place by the contract start date. Such evidence might include, but is not limited to, a signed contract or an offer letter, or written evidence of a lease starting from 14 October 2010.

1.a. I am having difficulty using the Tender Information Form, especially with the “macros”. Can you give us some further guidance on using the Tender Information Form?

We have now published a notice giving this further guidance, which is reproduced below:

NOTICE REGARDING TECHNICAL ACCESS TO THE TENDER INFORMATION FORM

On 30 November 2009 we published on our eTendering website the Information for Applicants (IFA) for those interested in responding to our Invitations to Tender to deliver publicly funded Immigration Services in England and Wales.

In accordance with our power under paragraph 11.5 of the Conditions of Tender in the IFA, we are issuing this notice to inform Applicant Organisations that they may request, through the ITTs’ message boards, a version of the Tender Information Form (TIF), which does not contain macros.

We have been made aware that for reasons of compatibility, some Applicant Organisations have been unable to complete the TIF(s) that must be completed to submit a valid tender in response to an ITT(s) because the computer will not enable macros. This problem may affect Applicant Organisations that:


- use Apple Mackintosh computers;
- have computers with security settings that forbid the use of macros within documents; or
- do not use Microsoft Office.

Steps to take to access and complete the Tender Information Form(s)

Applicant Organisations that find themselves unable to complete a TIF may (1) follow the steps under Option 1 below to try to rectify the technical problem or (2) follow the steps under Option 2 below to request a TIF, which does not contain macros.

Option 1)

Some Applicant Organisations’ computer settings may forbid the use of macros and disable them in all cases. The steps below can be followed for the applicable Excel version in order to change the settings to disable macros. Whilst this action will disable macros, it will still provide security alerts if there are macros present and allow the choice of when to enable macros on a case-by-case basis.

Office 2007	Office 2002/3	Office 2000
1) Open Excel	1) Open Excel	1) Open Excel
2) Click the Microsoft Office button - 	2) Click on Tools > Options in the toolbar	2) Click on ‘Tools’ in the toolbar, then click on ‘Macro’ > ‘Security’
3) Click on ‘Excel Options’	3) Click on the ‘Security Tab’	3) Click OK then restart Excel
4) Click ‘Trust Center’ > ‘Trust Center Settings’ > ‘Macro Settings’.	4) Under ‘Macro Security’, click on ‘Macro Security’	4) Open the Tender Information Form and choose to enable macros
5) Click on ‘Disable all macros with notification’	5) Click the ‘Security Level’ tab, then select the medium security level.	
6) Open the Tender Information	6) Open the Tender Information	

Form and choose to enable macros

Form and choose to enable macros

Applicant Organisations wishing to revert their computer back to their original settings, must note the default level of security used at 'Macro Settings' or 'Macro Security' (at step 4 above for Office 2007 and Office 2002/3 and at step 2 for Office 2000) to allow them to re-set their security level after completing the TIF(s).

Option 2)

For each ITT you are submitting a tender for, Applicant Organisations can send a message to the message board requesting a TIF without macros.

We will respond by sending you an email containing an alternative version of the TIF entitled "Tender Information Form without macros".

Applicant Organisations using the 'Tender Information Form –without macros' should complete this form(s) and upload with the relevant ITT(s).

Please note that we recommend that you start to complete your tender response early so that you identify any areas where you need help as soon as possible as the Helpdesk providing technical support is likely to be busy in the days leading up to the tender deadline.

The deadline for submitting tenders is 12 noon on 28 January 2010.

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Section 2. Procurement Areas/Offices/Access Points

2.1 I want to bid in the Southampton area, but there are 3 "offices" on the commercial details page. How do I choose which one to bid against, or does it not matter?

The Invitations to Tender (apart from Devon) require you to submit your response to the Selection Criteria listed in the Commercial Response section. Section 9 of the IFA contains information on responding to this section of the ITT.

The three 'office' options under each Access Point allows an Applicant Organisation to submit an Individual Bid for up to three different offices from which it wishes to deliver services.

So for example, if an Applicant Organisation has only one office in Southampton, it would fill in the fields once horizontally - choosing the answers from the drop down menu which relate to that particular office. In the other two 'office' options for Southampton it would chose 'Not Bidding' from the drop down menu.

If, on the other hand, an Applicant Organisation has 3 offices in Southampton from which it wishes to deliver services, it would fill in the fields horizontally three times-choosing the answers from the drop down menu which relate to each particular office.

2.2 In relation to the essential criteria namely permanent presence there is a requirement that out of hours clients must be able to access info about opening hours and whom to contact in an emergency and CL advice. Does this mean that providers must supply an emergency telephone number on their answerphone which will be accessible at all hours?

Paragraph 2.50 of the 2010 Standard Civil Contract – Specification states, “Out of hours, Clients who telephone must be able to access information about opening hours, who to contact in an emergency and Community Legal Advice.”

This does not mean that the office has to provide a telephone number which is accessible at all hours, but that it should have an answer-phone message stating who a person can contact in an emergency and how, and information on Community Legal Advice.

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Section 3. Supervisor Requirements

3.1 There are 5 forms in the Supervisor Self-Declaration download and the form only allows for one upload. What do we do if we have more than 5 supervisors?

If you have more than 5 supervisors then you should upload one form with 5 supervisors, and then download and save another form(s) which you should submit to us through the message boards within the eTendering system. We will acknowledge this as part of your response.

New questions and answers 21 January 2010

3.2 We have a London Office and wish to apply for an office in Luton. Currently we have 3 supervisors in the London office. As part of the essential criteria can these 3 supervisors be used on a rota basis to cover the proposed office in Luton? Or is there a need for there to be a full time employed supervisor in this office?

The supervision requirements (see Annex A of the IFA) and in Sections 2 and Section 8 of the Civil Specification relate to the immigration supervisors being employed by the Applicant Organisation, not to which office they work from.

An Applicant Organisation can, subject to the terms of the contract, employ a supervisor to work across multiple offices.

However, please note there is a selection criterion relating to proportion of time an immigration Supervisor will be based and regularly working from the Office related to an individual bid.

3.3 Do we still have to have a supervisor employed by the firm even though, other than me, there will be no one else practising immigration law under the CLS scheme? If so what is the requirements to attain a supervisor level of accreditation?

If there is only a single caseworker delivering immigration advice under the contract then this individual will need to meet the requirements to be the Immigration Supervisor.

Section 4. Other Quality Related Requirements

4.1 Will the LSC's accreditation contribution scheme continue under the new contract?

The LSC proposed in the discussion paper 'Quality in Legal Aid - SQM Outsourcing' (June 2009) that it would phase out the contribution scheme when new contracts came into effect in 2010. Following informal consultation we are continuing to review our approach to the contribution scheme, and are in correspondence with the Law Society about the extent to which it should continue and how it may apply in relation to plans for the reaccreditation of existing panel members.

4.2 I am a new entrant. Can I claim a contribution for accreditation costs I incur as part of the bid round?

The contribution scheme is open to LSC contract holders in relation to accreditation it was necessary for their staff to obtain in categories of law in which they hold contracts. Although the details of any contribution scheme that may take effect in 2010 have not yet been agreed, it would apply equally to all those that are successful in the bid round, whether new entrants or previous contract holders.

4.3 How do we apply for the SQM if we do not already hold it? If one part of the firm already holds the SQM, but it is a different office or held in a different category from those which we are now tendering for, do we have to apply for the SQM?

If your firm does not hold the SQM you will need to apply for it by uploading the QM1 form and Office manual when you complete the PQQ.

The SQM is held at firm level, so if your firm already holds the SQM in any category you will not have to submit a QM1 or Office manual.

Category-specific requirements, such as supervision, come under the individual Invitations to Tender for each category of law and area. The Information for Applicants document for each ITT will explain these requirements.

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[4.4 With reference to the requirement for all caseworkers to be accredited by the Law Society's IAAS can you confirm whether this includes Probationers registered to the scheme awaiting their Multiple Choice Exam?](#)

[Probationary registration allows advisers to do restricted work under close supervision for a limited period. If an applicant organisation employs some probationers, they can still confirm that all their caseworkers are accredited in Section 4 of their response to the ITT.](#)

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Section 7. Minimum New Matter Start Requirement

7.1 Could you please confirm whether or not the figures quotes in appendix 1 are NMS per yr or over the 3yr period of the contract?

Annex A to the IFA sets out Essential Criteria including the minimum New Matter Start (NMS) requirements. As stated in the Annex, the numbers refer to the minimum NMS which must be carried out “in each contract year”.

For further information on the minimum NMS requirement, see section 7.18 of the IFA.

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Section 9. Assessment of bids and allocation of new matter starts

9.1 In the event multiple suppliers score equally on all criteria, how will new matter starts be allocated? We understand they will be pro rata'd is this on the basis that all those with equal scores will receive e.g. 50% of their bid. For example, there are 1000 NMS on offer, supplier A bids 500, B bids 350, C bids 200, D bids 200, E bids 175, total of 1425 bid. How will the NMS be allocated given they all scored equally on the selection criteria?

The process for assessing tenders and awarding NMS is set out in Section 10 of the Information for Applicants document. A pro rata percentage reduction, based on the proportion of work bid for against the work available, will be applied in all cases where we are unable to separate bidders after the Selection Criteria have been applied.

In the above scenario this would mean the following:

NMS bid	% reduction	Pro rata reduction	NMS awarded
500	30	150	350
350	30	105	245
200	30	60	140
200	30	60	140
175	30	53	123
1425		428	998

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9.2 We understand that those suppliers with the highest number of points on the Commercial Response will get 'first bite of the cherry' in terms of the number of NMS allocated to them.

Our question is whether those suppliers with the next highest number of points, i.e. 57 out of 58, rather than 58 out of 58, will get preferential treatment in terms of access to NMS over and above the suppliers who score lower on the Commercial Response?

The alternative would be all suppliers (other than those with the highest number of points) getting a free for all access and all bids for NMS being considered equally regardless of the number of points they have.

Which of these is correct, please?

Please see section 10.13 and 10.14 of the IFA which gives information as to how bids will be assessed and ranked, and how NMS will be allocated to bids scoring differently.

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Section 10. Selection Criteria

10.1 Selection Criteria state that, "preference will be given to Applicant Organisations that will commit to deliver at least one regular and advertised Drop-in Service Session per week that is available to Immigration clients from the Office related to the Individual Bid"

Is there a minimum length for the weekly drop-in service? Does the drop-in service have to be held at the office or can it be part of a wider drop in service held at a local venue such as a church hall?

"Drop-in Service Session" is defined in Section 12 of the Information for Applicants. This definition covers session length. Furthermore, as stated in the criterion, the service has to be available from the Office related to the individual bid, and not from another location.

10.2 Where do we put information which distinguishes us from other firms ie, number of languages spoken, IT infrastructure, LEXCEL and IIP accreditation etc?

Each Invitation to Tender sets out the criteria which providers will need to meet in order to be awarded a contract (Essential Criteria) and those which we will use to distinguish between bids where there are more bids received than there are NMS available (Selection Criteria). When completing the online ITT, providers need to show that they meet these criteria and, by choosing an option from the drop down lists, give more information on how they meet these criteria. We do not require providers to submit any additional information beyond this, and as this is an open and fair tender process in which all providers are assessed on an equal basis, any additional information will not be considered.

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10.3 Under the Commercial Response Tab on the e-tendering portal "question 2 -Experience of delivering legal services." Do the words "applicant organisation" here also mean applicant as in "Partner / supervisor" in cases where the organisation is about to be registered or is a new organisation. If it did not, it would mean that very senior partners / supervisors who may have over 20 years experience of Immigration are being penalised for starting their own firms.

The options against this criterion on the Commercial Response include "Exceptional Circumstances". If you feel that your circumstances do not fit into the other options, you can select "Exceptional Circumstances" and use the "Comment on Response" section within the Commercial Response to set out your exceptional circumstances as to how you meet the relevant criteria for the Individual Bid.

10.4 If an organisation is bidding to deliver services in an access point where it does not currently have an office, and new premises have been identified and agreement in principle to occupy those offices from an appropriate point has been made, but no contractually binding documents have been exchanged, will this be categorised under the selection criteria as having "a formal written and agreed arrangement in place to set up an office" (and thus score 2 points) or

will it rather constitute having “plans to set up an office” (and thus score 1 point)?

If there is no formal written agreement in place then we would consider your proposals to be still in the planning stage.

10.5 Many of the criteria in Annex B refer to an individual bid but are not specific about whether the criteria being applied in relation to the “applicant organisation” refers to organisation as a whole or only to the organisation in that area. Will, for example, experience/employment of a level 3 caseworker in the organisation as a whole, and whose expertise is readily available to the specific location but where the L3 caseworker is not physically based in the specific location, count for that individual bid?

A similar point arises in relation to criteria in Annex B of the IRC ITT.

It depends on the particular wording of the criterion. Where the criterion does not specifically refer to the Office (such as that relating to Level 3 caseworkers) then it can be taken as referring to the Applicant Organisation as a whole.

10.6 Criterion 4 refers to proportion of caseworkers “required to deliver the matter starts at the office related to the individual bid.” How is “required” defined? The organisation may plan to recruit more caseworkers than required to deliver the maximum number of matter starts per caseworker of 150 but not “require” those staff for that purpose. Will it be penalised under this selection criterion for staffing at a better level than other providers because it declares more vacancies?

The definition of “required” here is related to the maximum number of matter starts per caseworker (150). Applicants do not need to declare vacancies beyond this. We do not wish to penalise applicants for staffing beyond this level.

For example, if a provider wished to deliver 300 NMS, but wanted to employ 3 members of staff, and had not yet recruited the third, they could, with their existing staff, still meet the 1:150 ratio, so should here select the option “Applicant has to recruit less than 25% of the total number of Caseworkers required to deliver the Matter Starts at the Office related to the Individual Bid”, and would therefore score the maximum of 5 points.

10.7 The tender information form section 3 states that the ratio of FTE caseworkers to NMS is “for information purposes only.” Will any preference be given to providers who in addition to meeting the capacity test of 1:150 across all bids have either overall and / or on individual bids lower ratios of FTE to MS?

No.

10.8 What method will the LSC use to allocate contracts amongst suppliers who all score equally highly against the selection criteria? What precisely will the criteria be and how will scores be allocated?

Please see the section 'Allocation of matter starts' in section 10 of the IFA, and additional information in answer to Q9.1 of the FAQ document.

10.9 The selection criterion regarding previous track record / experience gives maximum points to suppliers who have served at least 35 clients including representing at least one at the AIT since December 2008. How will the LSC differentiate between suppliers with this level of experience and those with very substantially more experience, as there is no apparent location on the tender forms to supply this information?

The same question can be applied to for example the criteria relating to the presence of authorised litigators and supervisors: how will the LSC distinguish between those suppliers who are sufficiently well staffed to score the maximum points and those suppliers who very substantially exceed the requirement e.g. by having far more supervisors and authorised litigators present and available.

We do not distinguish between providers who have experience of 35 clients and those with substantially more experience than this. The same principle applies to Authorised Litigators and Supervisors.

10.10 Drop In Service Sessions

1. Is there any restriction on what time of day the drop-in could start and end (subject to the minimum 2 hour requirement)?

2. Do you have to see everyone who walks through the door during the drop in, or could you restrict it to 10 clients per session, for example?

3. Do you have to take on thereafter the case of every client you see in the drop-in? Or can you use drop in to signpost to other providers, who may have greater capacity?

4. Can you restrict drop-in to certain categories of those seeking assistance - eg. only asylum, or only deportation

5. Can you refuse to see someone, for example if they have an existing solicitor or if because of their means they don't qualify for legal help?

6. Can you use the session to see an existing client to advise on matters associated with immigration, but not covered by legal help?

7. Is there a minimum level of accredited fee earner who can provide assistance?

The IFA (Section 12) says

"Drop In Service Session" means face-to-face advice for clients on the day without a prior appointment being made – a session must last for at least 2 continuous hours. "

This is the only requirement we have set and therefore within these parameters it is up to the individual provider how the drop in service will operate.

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100. Other Requirements

100.1 Please can you confirm that under Annex A (Essential Criteria) of the Immigration Services reference to 'Authorised Litigator' is as defined under s.119(1) of the Courts and Legal Services Act 1990?

Yes – Authorised Litigator means ‘a solicitor or other authorised litigator as defined in Section 119 of the Courts and Legal Services Act 1990.’

Please also see paragraph 1.14 of the Civil Contract Specification (Published on our website at www.legalservices.gov.uk following the pathway CLS > Civil Contracts > 2010 Standard Civil Contract)

100.2 The essential criteria require (for London ITT) that the Applicant Organisation must 'employ' an authorised litigator. Section 7.20 of the Information for Applicants states that 'employ' means that the Applicant Organisation must 'hold an employment contract with that staff member'.

Our immigration team has 2 solicitor partners and a partner who is a Fellow of the Institute of Legal Executives. As they are all partners none of them can be said to be employed by the practice under a contract of employment yet surely it must be intended that they qualify as Authorised Litigators. Please confirm.

We confirm that, for the purposes of the Authorised Litigator requirement, we would accept partners as being equivalent to employees with contracts of employment. A partner who is an authorised litigator would therefore meet the criterion even though they would not have a contract of employment.

100.3 Do immigration providers need an authorised litigator?

Annexes A and B to the Information for Applicants for the invitation to tender for mainstream immigration services sets out the essential and selection criteria against which organisations tendering to deliver services will be assessed.

For organisations bidding to deliver mainstream immigration services in London, employing an authorised litigator is an essential criterion.

For organisations bidding to deliver mainstream immigration services in areas other than London where competitive tendering is being used (i.e. all areas excluding Devon) employing an authorised litigator is a desirable criterion and will be assessed as part of the selection criteria.

100.4 In the PQQ question about complaints (Section 4, Question 3), if a complaint was referred to the Legal Complaints Service by the firm but then was resolved at the initial stage, without the need to refer to the adjudicator, how should we complete this question? The options given do not cover this.

The question asks whether complaints were referred to an external Regulatory/complaints body **and** upheld **and** sanctions applied. If a complaint was not upheld, then you should answer, “No complaints upheld and sanctions”.

100.5 Please confirm that an authorised litigator is as defined under the Courts and Legal Services Act, as a Solicitor with at least 3 years PQE.

An authorised litigator, as defined by the Act, is “any person (including a solicitor) who has a right to conduct litigation granted by an authorised body.” This does not relate to years of experience.

100.6 What is the role of an authorised litigator and do they have any additional responsibilities under the LSC Contract?

An authorised litigator’s role is primarily to issue proceedings and apply for a funding certificate for Legal Representation, and then to conduct the litigation. Without an authorised litigator, a provider organisation will not be able to provide the full range of services up to full Legal Representation for their clients.

100.7 In relation to ELAP please indicate how much control UKBA and the LSC will exercise over the provider. Will the provider be able to choose which asylum cases he/she takes on and will the provider be required to attend screening and substantive interviews for all clients.

Section 8 Part F of the 2010 Standard Civil Contract Specification details the particular arrangements for the Early Legal Advice Process. In addition the remaining terms of the contract will govern the relationship between the LSC and the provider and how Controlled Work should be delivered - including when providers can choose not to take instructions from a client.

The LSC will use the Electronic Appointment making mechanism to refer cases and it will be up to the individual provider in the area as to how much availability he provides on this system. However, once a successful provider accepts a client either through the mechanism or a client residing in the designated region then the ELAP will need to be followed. ELAP will be the 'only' process in the Region.

ELAP **does not** require attendance at any screening interview(s). ELAP **does** require attendance at the 'Interactive Substantive Interview' and for that purpose all caseworkers must be Level 2 Accredited and must, for instance, have undertaken prior active engagement on the case with the UKBA NAM case owner to clarify and narrow the issues.

100.8 Where do we provide information about whether we deliver drop-in sessions?

Information about drop-in sessions is collected as part of the “Commercial Response” section of the ITT. The Commercial Response section contains questions relating to selection criteria, one of which relates to drop-in sessions. For more information about the “Commercial Response” section, see sections 9.32 of the IFA.

[New questions and answers 21 January 2010](#)

100.9. How precisely will Standard Monthly Payments be calculated under the new contract? For example if an existing supplier is awarded a bigger contract, would their SMP be increased proportionally? How would SMP be calculated for new suppliers at the start of their contract? Please answer this question in relation to the general immigration contract and in relation to detained work.

SMPs will continue to be calculated based on the amount of work which a provider is allocated under their contract. For more information see section 4.28 of the 2010 Standard Civil Contract.

100.10 Section 5.25 of the IFA states that the LSC does not consider TUPE will apply to the termination of current immigration contracts and the re-award of Civil Standard 2010 Contracts following the tender process. We note nevertheless that section 26 of the draft 2010 Contract makes provision for TUPE in its termination provisions.

Can the LSC confirm that it has sought and received independent legal advice on the applicability of TUPE in relation to the tender process and award of the 2010 Contracts and if so, will the LSC disclose that advice to prospective suppliers.

The references to TUPE in the IFA and the Contract Standard Terms state the Commission's current position on TUPE generally to its contracts for legal services.

Where the number of outgoing Providers and successful Providers is greater than two on both sides of the alleged transfer of activities, it seems likely that there will be significant difficulties in showing that the relevant activities are a identifiable transfer from a particular outgoing Provider to a particular incoming Provider.

However, the case law on TUPE continues to develop and from time to time we do seek external legal advice on the applicability of TUPE to our contractual arrangements.

We do not consider that legal advice to us, as a contracting authority, would be useful to tenderers. We have consistently informed prospective tenderers that they should take their own independent legal advice on the applicability of TUPE.

Legal advice obtained by the Commission is usually exempt from disclosure under Section 42 of the Freedom of Information Act 2000.

100.11 Do CRB checks need to be complete by 28th January or 1st October 2010?

CRB checks (which are needed for staff working on cases for Unaccompanied Asylum Seeking Children) will need to be completed by the time the contract starts on 14 October 2010.

Clause 8.11 in the Immigration Specification states:

"All caseworkers who carry out Immigration Contract Work must:
(d) If intending to act for a Client who is an UASC have had an enhanced Criminal Records Bureau check in the 24 months prior to instruction."

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