



Frequently Asked Questions related to the:

Invitations to tender to deliver publicly funded Immigration Services at Immigration Removal Centres (IRCs)

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 22 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 29 January 2010.

Q.1 I am already completing the PQQ for the immigration tender. Do I need to complete another PQQ for the IRC/Fast Track tender? If so how do I get access to the application form? It says in the IFA that there are 2 ITTs. I do not appear to have access to the Onsite surgeries at all IRC application form. How do I get access to the application form?

As set out at section 9 of the IFA covering Immigration Services at IRCs, there is only ever a single PQQ response from an organisation held on the eTendering system and it is an Applicant Organisations' responsibility to ensure this is accurate at the time that the tender process closes. Please see sections 9.7 – 9.13 of the IRC IFA for further information.

The On-Site Surgeries ITT can be found in the "ITTs Open to All Suppliers" section of the eTendering portal. If you are unable to access this, please contact the eTendering helpdesk via lscsupport@bravosolution.co.uk or 020 3349 6610.

Q.2 We wish to apply for both the IRC and Fast Track Bid Tenders from all 6 of our London Offices. How will this be reflected in the application form? Do we just give a breakdown of each office per IRC and Fast Track ie 6 offices multiplied by 9 IRCs and if so can we do this on the one application form ie the IRC Tender Information Form?

Tenders for the Onsite Surgery and Fast Track Scheme Rotas are invited at Applicant Organisation level. As such, information requested on the application form is at organisational level.

As part of the ITT you will need to fill in a Tender Information Form to set out details of which of your offices will support the work you are tendering to deliver in each IRC.

Q.3 New Matter Starts: it appears that for IRC and surgery bids there will be additional NMS (on top of NMS allocated through the general bid), is this correct? If so we require clarity as to how precisely the additional NMS will be calculated. We refer to paragraph 7.14 and 7.25 of the IRC IFA.

As set out in paragraphs 7.14 and 7.25 of the IRC IFA, successful applicants **will** be awarded additional Matter Starts in the Immigration Category of Law to cater for Controlled Work arising from IRC rota arrangements.

Q4. Secondly, if the IRC and FT NMS are in addition to those allocated via the general bid, is a bidding organisation supposed to apportion the number of fee earners available taking into account the 3 tenders?

When considering how to bid for mainstream contracts and IRC work, Applicant Organisations need to consider the capacity to undertake work and meet the contractual obligations, and this includes the proportion of a staff member's time which would be given to delivering different Immigration Services.

For example, if the intention was that (if the bids were both successful) a FTE staff member would spend 50% of time on mainstream work and 50% of time on IRC work, that staff member should only be recorded as 0.5 FTE on the Tender Information Form for the mainstream work

Q5. We currently have a Fast Track contract with Yarlswood, however are based in London region. For the purpose of the Bid do we need to have a presence an midlands access point such as MH in order to have a successful Bid for the Yarlswood IRC Fast Track contract for Oct 2010 or can we Bid whilst only having a office in London.

The answer is that you do not need to have a presence in the Midlands. However, in order to be awarded a contract to deliver IRC work you must be awarded a contract to deliver publicly funded Immigration Service from your office in London.

The Fast Track ITT confirms that you must be award a contract to deliver publicly funded Immigration Services. As part of the Essential Criteria for that work you must have a Permanent Presence in the Procurement Area where you are bidding to deliver work in – in this case London.

Therefore, if you are bidding to deliver work from your Permanent Presence in London this is sufficient to meet the Essential Criteria. No other presence requirements are stipulated for the Fast Track ITT.

New questions and answers 29 January 2010

Q6. Re client choice, the ITT states:

5.9 While Providers contract with the LSC to conduct civil advice and representation services, the LSC does not control the allocation of cases or work. Providers with civil contracts obtain clients under open market conditions, where clients are free to choose a legal representative of their choice to advise or represent them.

Please clarify the above.

This paragraph refers to the general premise, which applies to all civil Controlled Work. It means that regardless of the numbers of Matter Starts/ Slots or Rota Weeks a successful bidder is awarded this does not automatically guarantee a client for each of the Matter Starts/Slots or Rotas.

Q7. How many people have been detained in the various IRCs in the past 12 months and of those how many have required assistance under LH or CLR?

Please see Home Office figures for the number of persons detained in immigration removal centres at: <http://www.homeoffice.gov.uk/rds/immigration-asylum-stats.html>

This does not reflect the number of individuals that were detained in each individual centre and required publicly funded legal advice; we are unable to provide this information.

Q8. According to the IFA the daily fee for attending clients under the surgery scheme is £200 or £400 depending on whether more or less than 4 clients are seen. Does this fee include travel and waiting, or only attendance?

You may not make any Claim for traveling or waiting time. Disbursements such as costs of travel and interpreting costs are claimable (Clause 8.140 of the Civil Specification).

Q9. I have noted that on the ITT and the attached forms to complete per IRC it is noted that there is no section to address how many Rota slots we wish to apply for per IRC. Where should I include this information?

Information on how many rota weeks (On-Site Surgeries) or rota slots (Fast Track Schemes) you wish to apply for is collected at **section 1 of the ITT in the eTendering portal**. This information is not collected on the Tender Information Form attachment.

Q10. Where a client is signed up to Controlled Work following a rota appointment, where appropriate can work be delegated to a level 1 caseworker (for tasks consistent with LSC guidance for a level 1 caseworker to complete)?

See Section 8 Immigration Specification paragraph 8.16, 8.115 and 8.125.

All work carried out under the Fast Track Rota can only be undertaken by a caseworker accredited to Level 2 or above.

Similarly all work carried out at an On Site surgery Rota can only be undertaken by a caseworker accredited to Level 2 or above. However if a Controlled Work matter start is subsequently opened in accordance with paragraph 8.125 the matter can then be referred to another caseworker in accordance with 8.16 and the LSC work restrictions. A level 1 Accredited caseworker can only have conduct of Legal help Matters

Q11. In respect of the selection criteria regarding fresh asylum applications being accepted as fresh claims:

a) Where fresh claims have been made and individuals have been given leave under Legacy, does this meet the criteria? Is there a distinction between clients given Discretionary Leave to Remain/Humanitarian Protection or in the alternative Refugee Leave following such situations.

The reference to “fresh” claims refers specifically to **asylum** matters, where the client has had an original asylum application (whether lodged prior to April '07 or not) and now seeks to make a further asylum application or make further submissions on an original asylum application.

Whether it can be classed as a fresh claim will depend on whether UKBA accepts the application as a “fresh claim” for consideration, irrespective of whether it is granted or not.

b) Do fresh asylum applications include fresh human rights applications not including arguments under the Refugee Convention (example Article 3 or Article 8)?

An asylum claim is claim brought under the 1951 Convention Relating to the Status of Refugees and/or Article 3 of the European Convention for the protection of Human Rights and Fundamental Freedoms 1950. It does not include a claim brought under Article 8 of the European Convention for the protection of Human Rights and Fundamental Freedoms 1950.

Please refer to para 8.7 of the 2010 Immigration Specification for a definition of what constitutes an asylum matter.

c) Where an application is made to revoke a deportation order is made and an in-country right of appeal is granted, does this meet the criteria?

No. Please refer to the answers given in 11 (a) above.

d) Where organisations submit a fresh claim application, and then the file is subsequently transferred to another firm and is then accepted as a fresh claim post-transfer, does this meet the criteria?

Only fresh applications that an Applicant organisation has made and lodged, which are subsequently accepted as such by the Home Office, can be included in the figures provided.

Q12. Where the questions refer to "since December 2008" can you clarify if this includes December 2008 i.e. since 01 December 2008.

Yes, we would take into account the period from 1 December 2008.

Q13. We have received many questions asking us whether we will use any additional selection criteria, or whether applicants would score more highly if they exceeded the various levels of service we set out in the selection criteria. These questions related to selection criteria including:

- **Volumes of work which applicants could provide beyond the required levels**
- **Numbers of fresh claims**
- **Numbers of bail applications**
- **Numbers of JR cases**

Our response to all these questions is as follows. 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). With Selection Criteria the scoring system together with the points to be awarded for each selection criteria answer is also given in the Annex to the IFA.

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. 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.

Q14. In previous bidding rounds the LSC has recognised a higher demand for Controlled work in some locations, for example 65 % in Dover. Will this be taken into account when assessing the capacity of a supplier in such a location to meet demand?

As part of this tender, Applicant Organisations are tendering to deliver rota weeks and slots not Controlled work New Matter Starts. Historically, capacity to see 20 detainees a week has been sufficient to meet demand at and arising from onsite surgeries at IRC's.

Q15. If the LSC will not rank bids in favour of those who can provide a higher level of service, how will the LSC ensure that providers awarded contracts, are in a position to cope with demand for more than 20 detainees a week to be seen at surgeries in a particular IRC and higher numbers requiring Controlled Work?

Where Applicant Organisations' total bids exceed number of rota weeks/slots available, we will apply selection criteria where we will prefer organisations that meet additional experience based requirements. Historically, capacity to see 20 detainees

a week has been sufficient to meet demand at and arising from onsite surgeries at IRC's.

Q16. What method will the LSC use to allocate contracts amongst suppliers who all score equally highly against the selection criteria?

Please see section 10.14 of the IRC IFA.

Q17. Under the current system, firms are allowed to take clients detained at YW and HW outside the surgery scheme. Will firms be able to do so under the new contract and if so under which circumstances:

- will ALL cases be referred to suppliers under the surgery scheme (in which case clients will no longer be able to approach a publicly funded solicitor directly and outside the scheme)?
- will firms be able to take cases of clients detained at IRCs only if they have a contract, but outside the surgery scheme (if for example a client contact them directly and not through the surgery scheme)?-
- will firms be able to take on clients detained at IRCs if they do not have a contract for that IRC (for example if the client contact the firm directly)?
- In other terms, we understand that the Standard Contract Specification 8.111 describes the schedule to provide such work as 'exclusive'; but does this mean that firms cannot provide advice at Onsite Surgeries without a contract or that they cannot take any work from IRC if they do not have a contract?

Providers without an Exclusive Schedule to deliver work at an IRC will be unable to commence work for a new client unless the exceptions in the Section 8.6 and Section 8.47 (Detained Cases) of the Civil Specification apply.

Q18. 'Preference will be given to Applicant Organisations that have delivered specialist Immigration legal advice in IRCs or prisons to a greater number of clients since December 2008.' Can we count all matter starts for specialist Immigration legal advice or just each client? E.g. A client who has removal directions and is unlawfully detained and who wishes to apply for bail. We open a LH to take initial instructions from client and later Legal Representation to JR removal directions and unlawful detention and later CLR for AIT bail. Does that count as 3 acts or 1 act for the selection criteria. If we can only count this once - why?

This would count as one client. This criterion aims to capture the number of individuals in detention assisted by tendering organisations, not the complexity of the client's case or situation.

Q19. 'Preference will be given to Applicant Organisations that have obtained release for a greater number of clients through successful bail applications since December 2008. Can an applicant include clients who they have obtained release other than through bail e.g. a request for temporary release? If not, why not?

This criterion aims to specifically capture the experience an Applicant Organisation has of submitting successful bail applications. The Criterion is aimed at the experience of representing clients at bail hearings and obtaining bail rather than any other related work an Applicant Organisation may undertake to secure the release of a client including a request for Temporary Admission. There are many reasons why a client may be released which are not necessarily connected with the work of the Applicant Organisation but this criterion is not concerned with them.

Q20. 'Preference will be given to Applicant Organisations that, since December 2008, have had the greatest number of their Immigration Judicial Review claims given the court's permission to proceed under CPR 54.' Can an applicant include applications where the JR is settled in the client's favour before permission is decided or if permission is refused on the papers, claimant applies for oral renewal, matter settled favourably thereafter but before oral renewal takes place. If not, why not?

This criterion aims to specifically capture the experience an Applicant Organisation has of submitting successful judicial review permission applications. This would normally be where as a direct result of the judicial review application being lodged, the court grant permission. However if as a direct result of a judicial review application being lodged or after permission on the papers was initially refused, the UKBA decide to grant the client permission to remain in the UK rather than defend or continue to defend the judicial review claim, then the client clearly receives a positive outcome and these claims should also be included in your answers to this criterion.

Q21. Are we permitted to estimate the numbers? If so what is an acceptable margin for an estimate e.g. for no.1 within +/- 10 clients? If not do we have to provide any evidence for numbers with the tender?

No. Applicant organisations are expected to refer to real clients they have advised in satisfying the particular criterion in question. Although bidders are not required to provide evidence with their tender we reserve the right to request verification of any information provided through this tender process.

Q22. 'Preference will be given to Applicant Organisations that have had a greater number of fresh asylum applications accepted as Fresh Asylum Claims by the UKBA since December 2008.' (a) Does that just apply to detained cases or all cases? (b) Can applicants include persons who did not receive a decision on their fresh claim but who were subsequently granted: (i) leave to remain (e.g. under the legacy) or (ii) an in-country right of appeal to the AIT (e.g. an in-country right of appeal for refusing to revoke a deportation order). If not, why not?

This criterion applies to all cases, not just detained cases. The reference to “fresh” claims refers specifically to asylum matters, where the client has had an original asylum application (whether lodged prior to April '07 or not) and now seeks to make a further asylum application or make further submissions on an original asylum application.

Only fresh applications that an organisation has made and lodged, which are subsequently accepted as such by the UKBA, can be included in the figures provided.