

INVITATION TO TENDER TO DELIVER  
PUBLICLY FUNDED MENTAL HEALTH  
SERVICES

**INFORMATION  
FOR  
APPLICANTS**

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## **Section 1: Overview of this Information for Applicants (IFA)**

### **What are we inviting Applicant Organisations to deliver?**

The Legal Services Commission (LSC) is inviting interested parties to submit tenders to carry out publicly funded Mental Health Services for clients in England and Wales from 14 October 2010. 'Mental Health Services' means face-to-face advice services (and where appropriate Representation) to Clients in the Mental Health Category of Law (see Section 7).

### **What does this IFA cover?**

This IFA contains the information, instructions, rules, conditions of contract award and Terms and Conditions of Tender that will govern the tender process for **two** separate Invitations to Tender (ITTs). The first covers the provision of Mental Health Services in Strategic Health Authority areas and the second covers the provision of Mental Health Services in High Security Hospitals.

### **Who may submit tenders?**

This is an open process and Applicant Organisations do not need to be current contract holders with the LSC to apply. However, any Applicant Organisations interested in undertaking Mental Health Services in a High Security Hospital must ensure that it also tender for and are awarded a contract to deliver Mental Health Service in at least one Strategic Health Authority area (see Section 2).

### **What are Applicant Organisations tendering for?**

Applicant Organisations are tendering for an allocation of advice cases (known as 'Matter Starts') in the Mental Health Category of Law (and a licence to undertake representation at court) in specific geographic areas in England and Wales (see Sections 7 and 8).

### **How do Applicant Organisations submit tenders?**

The two ITTs covering Mental Health Services will be published on our eTendering system for Applicant Organisations to submit tenders against. For tenders to be complete, a response to the Pre Qualification Questionnaire (PQQ) must also have been submitted. We will only accept tenders submitted through our eTendering system which can be accessed at [www.legalservices.bravosolution.co.uk](http://www.legalservices.bravosolution.co.uk) (see Section 9).

### **What does a completed tender consist of?**

A completed tender consists of a response to the PQQ **and** a response to an ITT (including the Mandatory Form) (see section 9).

### **When can Applicant Organisations submit tenders from?**

The ITTs for the Mental Health Services outlined above open on 10 February 2010 and you may submit tenders from this date until the deadline below.

### **When is the deadline for submitting tenders?**

The deadline for submitting tenders is 12 noon on 31 March 2010. Tenders received after this deadline will not be considered (see Section 3 for full details of the timetable).

### **How will tenders be assessed?**

Tenders will be assessed by the LSC in accordance with the process set out in Section 10.

**What happens if a tender is successful?**

If a tender is successful, we will enter into a contract with the Applicant Organisation to operate the applicable services under the terms of the 2010 Standard Civil Contract (3 year contract to commence on 14 October 2010 and extendable at our option by up to a further 2 years).

## **Section 2: Services covered by this IFA**

- 2.1. This IFA covers the two ITTs for the provision of Mental Health Services to clients across England and Wales (**ITT\_30** relates to provision of publicly funded Mental Health services in Strategic Health Authority Procurement Areas and **ITT\_29** relates to the provision of publicly funded Mental Health services at High Security Hospitals).

### **Important note on the High Security Hospital ITT:**

- 2.2. Whilst there will be two separate ITTs (one covering the provision of Mental Health Services in Strategic Health Authority areas and the other covering the provision of Mental Health Services in High Security Hospitals) it is an essential requirement that an Applicant Organisation is awarded a contract to deliver Mental Health Services in a Strategic Health Authority area, in order for it's tender for services at High Security Hospitals to be considered.
- 2.3. If you are tendering for work in one of the High Security Hospitals, you will be asked to acknowledge in your response to this ITT that the above essential requirement is a condition of any award of contract to deliver High Security Hospital work.
- 2.4. Subject to the terms of the Contract, providers will not be able to deliver Mental Health Services in High Security Hospitals unless they tender for, and are subsequently awarded a contract for High Security Hospital work.

## **Section 3: About this IFA**

### **Structure**

3.1. This IFA is set out into 12 sections for your ease of reference:

- Section 1: Overview of this Information For Applicants (IFA)
- Section 2: Services covered by this IFA
- Section 3: About this IFA
- Section 4: Documents related to this IFA
- Section 5: About the Legal Services Commission and legal aid
- Section 6: Quality Standards for the delivery of services from October 2010
- Section 7: About Mental Health Services from October 2010
- Section 8: About the volume and location of Mental Health Services
- Section 9: How to submit a tender
- Section 10: How will tenders be assessed and Matter Starts awarded?
- Section 11: Terms and Conditions of Tender
- Section 12: Definitions

3.2. In addition there are five supporting Annexes:

- Annex A: Essential Criteria
- Annex B: High Security Hospital Selection Criteria and scoring
- Annex C: Map of Procurement Areas
- Annex D: Comparison of Mental Health Procurement Areas with Social Welfare Law Procurement Areas
- Annex E: Guidance for if Applicant Organisations are unable access to the Tender Information Form due to macros

### **Conditions of Tender and Definitions**

3.3. Section 12 explains all the definitions of phrases capitalised throughout the Tender Documents. Section 11 contains the Terms and Conditions of Tender governing this tender process; Applicant Organisations should familiarise themselves with these terms.

### **Asking questions**

- 3.4. There will be two different channels through which to direct questions depending on the nature of your query. The two different question types are:
- Questions about the content of this IFA or the two ITTs; and
  - Questions about how to technically use the eTendering system.

### **Questions about this IFA, the PQQ or the ITTs**

3.5. If you have any questions about the content of this IFA, the PQQ or the ITTs, you may submit them up until **12 noon on 10 March 2010** (note this is referred to as the 'End date for clarification messages') on the eTendering system.

- 3.6. All questions must be submitted using the online secure messaging tool within the eTendering System (see Section 9 for more detail about eTendering).
- 3.7. 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 on the civil tender pages of our website in a 'Mental Health Frequently Asked Questions (FAQ)' document.
- 3.8. A final Mental Health FAQ document will be published on 17 March 2010.

#### **Questions about how to use the eTendering system**

- 3.9. We will offer a Helpdesk to provide technical support to Applicant Organisations using the eTendering System. However, the Helpdesk is **unable** to assist with problems with your own computer hardware or systems - for these types of issues you should contact your usual IT support.
- 3.10. Questions must be emailed to the following email address: [lscsupport@bravosolution.co.uk](mailto:lscsupport@bravosolution.co.uk). Alternatively, the telephone number for the Helpdesk is 0203 3496610 (charged at a local rate from any national destination).
- 3.11. 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 possible, as the team is likely to be very busy in the days leading up to the tender deadline.

#### **Timelines**

- 3.12. A list of planned dates for key activities in this tender process are set out below.

<b>Activity</b>	<b>Timescale</b>
Invitations to tender for Mental Health Services are opened and available via the LSC's eTender portal	10 February 2010
Final date to submit questions about this IFA and the ITTs	12 noon on 10 March 2010
Final 'Frequently Asked Questions' to be published	17 March 2010
Deadline for submission of tenders (response to the PQQ and response to one or both ITT)	12 noon 31 March 2010
Applicant Organisations notified of outcome of tender process in Strategic Health Authorities	26 April 2010
Deadline for submission of appeals from those Applicant Organisations unsuccessful following assessment of the Strategic Health Authorities ITT	17 May 2010
Notification of decision on appeal	18 June 2010
Applicant Organisations notified of outcome of tender process in High Security Hospitals	2 July 2010
Deadline for submission of appeals from those Applicant Organisations unsuccessful following assessment of the High Security Hospitals ITT	26 July 2010
Notification of decision on appeal	20 August 2010
2010 Standard Civil Contract including Schedules issued to successful Applicant Organisations	<b>Aug – Sept 2010</b>
Contract start date	<b>14 October 2010</b>

**Section 4: Documents related to this IFA**

**Tender Documents - you MUST read these before submitting your tender**

<b>NAME</b>	<b>Description</b>	<b>Location</b>
<b>Information for Applicants (IFA)</b>	This document sets out the information, instructions, rules and Terms and Conditions of Tender relating to the two ITTs	LSC Website pathway: <a href="http://www.legalservices.gov.uk">www.legalservices.gov.uk</a> (CLS > Tenders > Civil Bid Rounds for 2010 > Mental Health)
<b>Pre Qualification Questionnaire (PQQ)</b>	Includes: (1) Series of questions; (2) Applicant Organisation Information Form (Private Sector or NfP); <u>and</u> <i>If applying for the SQM as part of the PQQ:</i> (3) QM1 Form (4) Request to provide Office Manual	PQQ pages on the eTendering portal: <a href="http://www.legalservices.bravosolution.co.uk">www.legalservices.bravosolution.co.uk</a>
<b>Invitation to Tender (ITT):</b> <b>There are 2 ITTs covering Mental Health Services:</b> <ul style="list-style-type: none"> <li>• <b>Services in Strategic Health Authority Procurement Areas;</b></li> <li>• <b>Services in High Security Hospitals</b></li> </ul>	Includes: (1) Series of questions (2) Tender Information Form ( <b>Mandatory Form</b> ) (3) Essential Criteria questions (including request to provide Supervisor Self Declaration Forms) <i>High Security Hospitals ITT only:</i> (4) Selection Criteria questions	ITT pages on the eTendering portal: <a href="http://www.legalservices.bravosolution.co.uk">www.legalservices.bravosolution.co.uk</a>

**Supporting documents-** contract documents, additional supporting guidance and information

<b>Name</b>	<b>Description</b>	<b>Location</b>
2010 Standard Civil Contract	All Contract documentation including: Contract for Signature Standard Terms Schedule Specification (including Payment Annex)	LSC website pathway <a href="http://www.legalservices.gov.uk">www.legalservices.gov.uk</a> (CLS > Civil Contracts > 2010 Standard Civil Contract)
Tender FAQ document	Questions and answers of wider interest to Applicant Organisations	LSC website pathway: <a href="http://www.legalservices.gov.uk">www.legalservices.gov.uk</a> (CLS > Tenders > Civil 2010 Contracts)
eTendering guidance*	Guidance on how to use the eTendering system including: (1) eTendering online training or Powerpoint presentation (2) eTendering Quick Guides (3) eTendering Technical FAQ	“Technical Support and Guidance” section on the eTendering portal: <a href="http://www.legalservices.bravosolution.co.uk">www.legalservices.bravosolution.co.uk</a>  Please note, this link is only available on the front page of the portal so we advise that Applicant Organisations familiarise themselves with this documentation before registering or logging in.

\*In addition to the LSC eTendering guidance, our provider of the eTendering system, Bravo Solution, has its own Supplier Helpdesk which can be accessed through clicking on the '?' options on the eTendering system. This Supplier Helpdesk contains Bravo Solution's own technical support which may assist you further in using the eTendering system.

## **Section 5: About the Legal Services Commission and legal aid**

### **About the LSC**

- 5.1 The Legal Services Commission (the LSC) is responsible for delivering legal aid (publicly funded advice and representation) through high quality service providers to people with legal problems in England and Wales.
- 5.2 The LSC was established under the Access to Justice Act 1999 ('the Act'), replacing the Legal Aid Board in April 2000. It is a non-departmental public body sponsored by the Ministry of Justice. The Lord Chancellor and the Secretary of State for Justice is accountable to Parliament for the LSC's activities and performance, and also appoints a board of non-executive Commissioners to oversee its work.

### **About legal aid**

- 5.3 Legal aid enables people to safeguard their rights and address their legal problems. Our work is therefore essential to the fair, effective and efficient operation of the civil and criminal justice systems. It is also critical in helping to provide access to justice and fair trials (with professional representation) to over two million people each year.
- 5.4 We commission the services people need from solicitors, advice agencies, barristers and commercial organisations (known as our 'Providers'). The skills and commitment of legal aid service Providers are essential to helping people resolve their problems.
- 5.5 We deliver legal services through two schemes: the Criminal Defence Service (CDS) and the Community Legal Service (CLS). Both schemes have eligibility criteria in relation to the means of the client and the nature of the problem, with certain limited exceptions.

### **The Community Legal Service (CLS)**

- 5.6 The CLS consists of a network of Providers (including solicitors and not for profit agencies, such as Citizens Advice Bureaux and Law Centres), which provides and promotes civil and family legal advice and representation.
- 5.7 Part of this is done through Community Legal Advice, which includes telephone and Internet based services. We jointly fund legal services with local authorities known as Community Legal Advice Centres and Networks.
- 5.8 We also contract with Providers to deliver face-to-face civil legal aid services. Contracts are awarded by Categories of Law, allowing us to allocate funding to the areas where clients need it most.

### **Client choice**

- 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, from those providers, a legal representative of their choice to advise or represent them.

## Quality Assessment

- 5.10 It is a mandatory requirement for our 2010 Contract that all providers that deliver services under the civil or crime contract hold either the LSC's own quality standard – the Specialist Quality Mark (SQM) or the Law Society's quality standard - Lexcel. See Section 6 for more information about these and how to apply for the SQM.
- 5.11 The LSC also operates a quality assessment tool called peer review. Peer review involves independent experienced legal aid practitioners assessing a random sample of a Provider's case files to determine the quality of advice and legal work provided to clients in a particular Category of Law. A standard ratings system is applied to the work as an indication of quality (1 being the highest rating and 5 being the lowest). More information on peer review can be found at [www.legalservices.gov.uk](http://www.legalservices.gov.uk) (CLS > Quality and Performance > Peer review).

## The Funding Code

- 5.12 The Funding Code is the set of rules used to decide which individual cases are to be funded by the LSC and is central to the delivery of legal aid services. The Funding Code criteria define what services the LSC will fund, ranging from basic legal advice to representation in court proceedings and sets out the types of cases known as the Levels of Service. A full copy of the Funding Code can be found at [www.legalservices.gov.uk](http://www.legalservices.gov.uk) (CLS> Civil legal aid eligibility).
- 5.13 The Funding Code divides services into levels of cases known as Levels of Service. There are four Levels of Service in civil, three known collectively as Controlled Work and a fourth covering Licensed Work.

## Controlled Work

- 5.14 The three Levels of Service in Controlled Work cover basic levels of advice and assistance (and some representation before tribunals):
- Legal Help
  - Help at Court
  - Controlled Legal Representation (CLR) which is limited representation before:
    - o A Mental Health Tribunal
    - o An Asylum and Immigration Tribunal (including appeals).
- 5.15 A minimum and maximum number of Controlled Work cases (known as Matter Starts) are allocated to a Provider who may then assist clients directly without prior authority from the LSC (provided they have sufficient Matter Starts available).
- 5.16 Most payment for Controlled Work is based on a fixed fee per Matter which may be different in each Category of Law and at each Level of Service. In certain circumstances a case may be deemed exceptional and paid outside the fixed fee at prescribed legal aid hourly rates. On a monthly basis, Providers compile and submit a claim to the LSC detailing the value of cases completed that month. Providers are paid a monthly amount for their Controlled Work based on the average value of these monthly claims.

## **Licensed Work**

- 5.17 Licensed Work covers all representation other than CLR (and excluding high cost cases which are managed through specialist contracts). The Contract operates as a license for Providers to undertake Licensed Work (without limits on numbers). However, funding applications need to be submitted to the LSC for each case and the LSC decides whether the Funding Code criteria and the merits test are met. Limits in relation to the work are then set which may be varied on application by the Provider on behalf of the Client.
- 5.18 Payment for Licensed Work is assessed by either the court or the LSC and is paid on the basis of individual claims submitted by Providers.

## **2010 Standard Civil Contract**

- 5.19 New civil contracts for the delivery of face-to-face civil legal aid advice, including Mental Health, will come into force on 14 October 2010 (the contract start date) and have a term of 3 years, subject to rights of early termination and our right to extend for up to 2 years. All Mental Health Services (including staff, premises etc.) must commence on 14 October 2010 and an Applicant Organisation must be able to confirm it is ready to deliver these services 8 weeks before the contract start date. The contract is split into:
- Contract for Signature
  - Standard Terms (govern the relationship between the LSC and the Provider)
  - Specification (governs how work should be delivered and includes the Key Performance Indicators that Providers must meet and the Payment Annex setting out the applicable rates)
  - Schedules (sets out the Categories of Law, volume of work and any bespoke terms relevant to the delivery of services at a particular location)
- 5.21 All the contract documentation (and guidance) is available on our website (CLS > Civil Contracts > 2010 Standard Civil Contract) and we would strongly recommend that you familiarise yourself with the terms of the contract prior to tendering.

## **Who we will contract with**

- 5.22 As part of this tender process we are introducing a Pre Qualification Questionnaire (PQQ), which will ask a series of questions designed to determine whether Applicant Organisations can meet the minimum standards for a contractual relationship with the LSC.

## **Legal Status of Applicants, subcontracting and consortia tenders**

- 5.23 We will only contract with a single legal entity for the purposes of providing Mental Health Services.
- 5.24 Therefore, should Applicant Organisations wish to merge or join up with others it will be necessary to form a new single legal entity to provide the advice services required. This will mean that the single entity will be responsible for ensuring the performance of the Provider's obligations under the contract and that a Client's retainer will always be with the single entity.
- 5.25 Where Applicant Organisations are tendering as a new single legal entity that will be in place 8 weeks before 14 October 2010, it must complete a single PQQ and complete their the ITT(s) as that new legal entity.
- 5.26 We will not accept subcontracting arrangements (e.g. where you pay another organisation to deliver part of the service); instead, Applicant Organisations must be able to provide all the services they tender for, without the need to refer any Matters or Levels of Work to other individuals or organisations (although the contract does permit the use of Agents in certain circumstances). We will not accept consortia tenders for the provision of these Mental Health Services.

## **TUPE**

- 5.27 The LSC does not consider that TUPE will apply to the termination of current Mental Health contracts and the re-awarding of Civil Standard 2010 Contracts following this tender process.
- 5.28 In summary, 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.
- 5.29 However, we continue to state that Applicant Organisations should seek their own legal advice on TUPE and not rely on our views.

## **Indemnities from Applicant Organisations with limited liabilities (excluding charities)**

- 5.30 If you are an Applicant Organisation with limited liability (unless you are a registered charity) you must as part of the ITTs commit to providing an indemnity on the relevant form specified by us following submission of a tender.
- 5.31 It will be a condition of any contract award that you will supply us (by the date set out in any request) with a relevant indemnity form signed by the ultimate owners of your organisation and/or such persons as we might reasonably regard as being controllers and/or senior managers of your organisation and/or where you are a limited company, from any company which is your holding company.

## **Section 6: Quality Standards for the delivery of services from October 2010**

- 6.1 It will be a requirement of the 2010 Standard Civil Contract that Providers hold a recognised quality standard – either Lexcel or the Specialist Quality Mark (SQM).
- 6.2 A New Provider (i.e. one that does not currently hold the Unified Contract (Civil or Crime) will be subject to a condition of contract award that they either:
- hold Lexcel; or
  - confirm in the PQQ that they wish to apply for the SQM and in accordance with the process set out below:
    - (1) must pass the desk top audit at least 8 weeks before 14 October 2010; and
    - (2) and fully hold the SQM by 1 April 2011.
- 6.3. Those already holding the SQM in any Category of Law should note that the SQM has recently changed - it now applies to an organisation as a whole rather than being Office or category specific. Applicant Organisations will not need to apply for the SQM if they currently hold the Standard and wish to expand to deliver from an additional Office or in an additional Category of Law. Further information on these changes is available at [www.legalservices.gov.uk](http://www.legalservices.gov.uk) (CLS > Quality and Performance > Quality Mark > Specialist Help).
- 6.4. Supervisor Standards now form part of the Contract, and as such, supervision requirements will be covered by the ITT – please see Section 7 for further information.

### **Applying to hold the SQM**

- 6.5. The process for applying for the SQM is made up of three parts:
- (1) SQM related questions in the PQQ;
  - (2) Completion and submission of a QM1 Form; and
  - (3) Submission of an Office Manual
- 6.6. The application process for the SQM is dealt separately to the tender process, as it is a condition of contract award and not part of the PQQ or ITT response.
- 6.7. We request that Applicant Organisations submit the QM1 Form and Office Manual with the PQQ and would encourage you to do so. However, if this is not received by the deadline will we not reject the PQQ but will make a further request for these document from the Applicant Organisation. The Applicant Organisation must provide these document by the deadline set out in the request or its application for the SQM will be rejected and paragraph 6.12 below will apply.
- 6.8. If an Applicant Organisation is successful in being awarded a contract, between the award and the start of the Contract we will conduct an internal, paper-based audit (known as a 'desktop audit') of the QM1 Form and Office Manual to determine whether the organisation has the necessary processes in place to be awarded the SQM. The desktop audit is the first stage of audit that Applicants

must pass to be awarded the SQM and there are then further audit stages to achieve the SQM, which will be undertaken within the first 6 months of the contract

- 6.9. The SQM comprises of a set of standards designed to ensure that a service is well run and has its own quality control mechanisms. The content of the Office Manual must demonstrate that it has the procedures in place to comply with the SQM requirements. The purpose of the desktop audit is to assess the Office Manual to ensure it addresses these requirements.
- 6.10. Where, following initial desktop audit assessment of the Office Manual, the documentation is incomplete or further substantial work is required before the Applicant Organisation's procedures begin to comply with the SQM requirements, we will inform the Applicant Organisation of the omissions. The Applicant Organisation will be given 14 days to provide us with a revised Office Manual.
- 6.11. If the Applicant Organisation fails to provide a revised Office Manual or having done so, following a further desktop audit assessment, the documentation is still incomplete or further substantial work is required before the Applicant Organisation's procedures begin to comply with the SQM requirements, the desk top audit will fail.
- 6.12. Failure to pass the desktop audit will mean the Applicant Organisation has failed to meet a condition of contract award which will entitle the us to reject a tender, and/or entitle us not to proceed with any decision made to award the Applicant Organisation a Contract or entitle us to terminate the contract pursuant to Clause 25 of the Standard Terms.

***Applicant Organisations applying for a contract in multiple categories of law***

- 6.13. We only require one application for the SQM per Applicant Organisation regardless of the number of Invitations to tender an Applicant Organisation has responded to.
- 6.14. Consequently, we will process a single SQM application regardless of the number of ITTs an Applicant Organisation has submitted tenders against (or times a PQQ response is considered).
- 6.15. For example, if an Applicant Organisation has submitted a PQQ response (including SQM application) for a Crime contract and again for a Mental Health contract we will conduct one application process (i.e. a single desk top audit) and apply the outcome to both tender processes.
- 6.16. Applicant Organisations must therefore submit the required information to apply for the SQM with their first PQQ response and for any subsequent responses relating to ITTs for other Categories of Law, should indicate that they 'commit to achieving the SQM' but should not upload the QM1 form or their office manual again.

**Lexcel**

6.17. As Lexcel is an externally run quality standard, any Provider choosing to meet the quality requirements via this route would need to hold it at the time of tendering. Further information on Lexcel can be found at the Law Society's website: <http://www.lawsociety.org.uk/productsandservices/lexcel.page>.

## **Section 7: About Mental Health Services from October 2010**

### **Mental Health Services**

- 7.1. This section describes the category specific requirements that apply to the Mental Health Services we wish to procure. The rules governing how Mental Health Services should be delivered are set out in the Standard Civil Contract Specification and in particular at Section 9 – Mental Health Category Specific Section. Part B explains in further detail the particular requirements that relate to High Security Hospitals.
- 7.2. Below, under Essential Criteria are some of the key terms of the contract we will ask Applicant Organisations to confirm they can meet in their response to each ITT. However, these are not all the obligations you will be required to meet during the term of the contract and you should read the contract to understand the full extent of your obligations should you be awarded a contract.
- 7.3. In the ITT covering the High Security Hospitals only, we have additional preferences (known in the ITT as Selection Criteria), which we will use to choose between Providers when we are not able to award all Applicant Organisations a contract due to the number of tenders received exceeding the volume of work advertised.
- 7.4. The Mental Health Category of Law is defined by the Funding Code (for further information see [www.legalservices.gov.uk](http://www.legalservices.gov.uk) CLS> Civil legal aid eligibility).
- 7.5. Further background information on our policy behind the Mental Health Services that we are commissioning is set out in *Civil Bid Rounds for 2010 Contracts: A Consultation Response*, which is available at <https://consult.legalservices.gov.uk/inovem/consult.ti/2010Contracts/listdocuments>.

### **Payment**

- 7.6. In addition to the general rules regarding remuneration for work, (Sections 3 and 6 of the Civil Specification) Part D of Section 9 sets out the rules that are applicable to the Mental Health Category of Law only. The Payment Annex to the Civil Specification sets out the actual rates payable for the various types of work that can be undertaken in the category.

#### *Controlled Work*

- 7.7. We will pay you for Mental Health Controlled Work properly carried out in accordance with the contract under one of the following payment methods:
  - (a) Standard Fees
  - (b) Hourly rates
- 7.8. The Standard Fees payable for each matter vary according to the type of work undertaken, and the stage that an individual case reaches. The fees are inclusive of profit costs, as well as travel and waiting time. Counsel costs are also included in the fees unless prior authority has been granted to allow remuneration at a higher rate.

- 7.9. Disbursements are always paid in addition to the Standard Fees, and can be claimed at the end of the case or at one or more staged billing points whilst the case is still ongoing. Our stage billing provisions allow providers to submit an interim claim for the payment of disbursements already incurred in a case once six months of the matter has elapsed. They can then make further interim submissions once six months has passed since the last claim for the interim payment of disbursements was made.
- 7.10. All Mental Health Controlled Work is paid through Standard Fees, other than Help at Court for victims and those matters that escape the Standard Fee scheme, which will be remunerated by hourly rates. A matter may escape the Standard Fee scheme if, following the conclusion of a case, it is determined under the rules of the contract to be an 'Exceptional Matter'. A matter will be deemed exceptional where the cost of the case calculated according to the relevant hourly rates, and excluding disbursements, is greater than three times the value of Standard Fee(s) payable.

#### *Licensed Work*

- 7.11. Section 6 of the Civil Specification sets out the main rules for remuneration of Licensed Work once an application for a certificate to undertake a Licensed Work case has been granted.
- 7.12. You have a general right to claim payments on account for disbursements. In relation to profit costs, you may (3 months after a certificate is granted) apply to us twice in any 12-month period for a payment on account of up to 75% of profit costs incurred. For Licensed Work covered by Standard Fees payments on account may be limited to 75% of the fee but see paragraphs 6.22 to 6.33 of the Civil Specification general provisions and 7.23 to 7.27 of the Family Specification for full details.
- 7.13. Licensed Work is claimed per case in accordance with the provisions on claiming and assessment in the terms of the contract, the Community Legal Service (Financial) Regulations 2000, the Community Legal Service (Costs) & (Costs Protection) Regulations 2000 and the Civil Procedure Rules.
- 7.14. All Licensed Work claims submitted are subject to assessment by either the court or the LSC.

#### **Start Date**

- 7.15. Applicants must be able to commence delivering Mental Health Services from the contract start date of 14 October 2010. Where Applicant Organisations have committed to put the necessary arrangements in place (e.g. recruit a Supervisor or Caseworker against a vacant post), then we will seek verification of this 8 weeks before 14 October 2010 to ensure that the services tendered for are capable of being delivered from the contract start date. The contractual requirements therefore do not necessarily need to be in place at this stage but we will require evidence showing that they will be in place from 14 October 2010.
- 7.16. Where any conditions of contract awards (including any evidence required by the Essential Criteria) are not met, the Applicant Organisation may have its tenders rejected and/or any contract awarded will be terminated.

### **Key contract terms (Essential Criteria)**

7.17. The ITTs set out a number of key contract terms (known in the ITTs as the 'Essential Criteria') which an Applicant Organisation tendering to deliver Mental Health Services must demonstrate that it is able to meet. Detailed wording on each of the Essential Criteria is set out in each ITT and at Annex A.

### **Mental Health Services in Strategic Health Authority Procurement Areas**

7.18. The Essential Criteria are set out in Annex A but include requirements from 14 October 2010 to:

- Have an Office in England or Wales that complies with the Permanent Presence requirements;
- Have an Office in which is a Permanent Presence or that meets the Alternative Arrangements described in the 2010 Standard Civil Contract (Section 9.5) relating to presence for Mental Health Services;
- Deliver Legal Help and CLR to detained and non-detained clients in both Mental Health Tribunal work and Non-Mental Health Tribunal work;
- Commence a minimum of 30 Matter Starts per contract year in each Procurement Area where services are being awarded;
- Either undertake Legal Representation through the employment of an Authorised Litigator or have referral mechanisms for clients requiring Legal Representation;

### **Mental Health Services in High Security Hospitals**

7.19. The Essential Criteria are also set out in Annex A and in addition to requiring Applicant Organisations to respond to the ITT to deliver services in Strategic Health Authority Procurement Areas, the Essential Criteria for Mental Health Services in High Security Hospitals include the ability from 14 October 2010 to:

- Commence a minimum of 30 Matter Starts per contract year in each High Security Hospital where services are being awarded
- Undertake Legal Representation through the employment of an Authorised Litigator
- Employ at least one caseworker with experience of advising in Restricted Cases
- Ensure all caseworkers representing clients before the Tribunal are members of the Law Society's Mental Health Review Tribunal Accreditation Scheme

7.20. Where the criteria refer to 'employ' or 'employed' it means that the Applicant Organisation must hold an employment contract with that staff member or they must be a partner, member or director of the Applicant Organisation.

### *Mental Health Supervisor Standard*

7.21. All references to requirements for Supervisors means an individual who meets the Supervisor Standard in the Mental Health Category of Law. These requirements are set out in Sections 2 and 9 of the Standard Civil Contract Specification.

*Ratio of Supervisors to Caseworkers of 1:6*

7.22. One FTE equates to working at least 35 hours per week. For the purposes of calculating this ratio a Supervisor is defined as someone who meets the Mental Health Supervisor Standard and actively supervises. We require that Providers maintain no more than six FTE Caseworkers to any one FTE Supervisor.

**Preference in the ITT to deliver publicly funded Mental Health Services in High Security Hospitals only (Selection Criteria)**

7.23. As mentioned above, in addition to the minimum requirements covered by the Essential Criteria in High Security Hospitals we will have additional preferences (known in the ITT as Selection Criteria), which we will use to choose between Providers where we are not able to award all Applicant Organisations a contract due to the number of bids for Matter Starts received being greater than the volume of Matter Starts available at these locations.

7.24. If an Applicant Organisation is awarded a contract on the basis of Selection Criteria, these preferences will become obligations in the contract, which the Applicant Organisation will be required to maintain. For further details on each of the Selection Criteria, please refer to Annex B.

7.25. Each ITT will set out the Selection Criteria that will be applied and these are also set out in Annex B:

- A greater level of experience of delivering advice for clients detained under Part III of the Mental Health Act 1983.
- A greater level of confidence that advocacy can be provided at all MHTs by employment of a higher proportion of caseworkers that are members of the Law Society's Mental Health Review Tribunal Accreditation Scheme.
- A greater level of confidence of delivery by having to recruit fewer caseworkers to deliver Mental Health Services.

7.26. We will not be using Selection Criteria in the award of Mental Health Services in Strategic Health Authority Procurement Areas – for further information on how we will allocate Matter Starts in these areas following consideration of the Essential Criteria please see Section 10.

**Section 8: About the volume and location of Mental Health Services we wish to procure**

**Procurement Areas**

- 8.1 For the Mental Health Services for Strategic Health Authority Procurement Areas in England and Wales ITT, we will use Strategic Health Authorities as our Procurement Areas. This will enable us to align our service provision with that of other public bodies and allow providers flexibility to deliver advice across a Procurement Area.
- 8.2 The Mental Health Services for High Security Hospitals in England ITT will cover the three High Security Hospitals of Ashworth, Broadmoor and Rampton.
- 8.3 Further information about Procurement Areas and how they link to the services we wish to procure can be found in the Mental Health Procurement Plan, which can be viewed for background information at: CLS > Tenders > Civil Contracts for 2010 > Mental Health. Set out in Annex C is a geographical breakdown of each Strategic Health Authority Procurement Area and at Annex D a comparison of Mental Health Procurement Areas with Social Welfare Law Procurement Areas.

**ITTs and Matter Starts available**

- 8.4 Set out below is a breakdown of Matter Starts by Procurement Area. There will be two ITTs: one covering Strategic Health Authorities and one covering the High Security Hospitals.

<b>Procurement Area</b>	<b>NMS Allocation 2010/11</b>
<b>Strategic Health Authority</b>	
East Midlands (excluding Rampton Hospital)	2,840
East of England	3,420
London	9,940
North East	1,800
North West (excluding Ashworth Hospital)	5,550
South Central (excluding Broadmoor Hospital)	2,150
South East Coast	2,410
South West	2,330
Wales	1,850
West Midlands	3,130
Yorkshire and the Humber	3,630
<i>Total</i>	<i>39,050</i>
<b>High Security Hospital</b>	
Ashworth Hospital	280
Broadmoor Hospital	290
Rampton Hospital	380
<i>Total</i>	<i>950</i>

**Minimum number of Organisations – High Security Hospitals**

- 8.5 To avoid potential conflicts of interest and offer choice for detained clients we will require at least three separate Applicant Organisations to deliver Mental Health Services in each of the three High Security Hospitals.

## **Section 9: How to submit a tender (responding to the PQQ and ITT(s))**

### **Introduction**

- 9.1 This section covers how Applicant Organisations must submit a compliant tender and how to use the eTendering system to do so. If you are tendering to deliver Mental Health Services in both Strategic Health Authority Procurement Areas and High Security Hospitals you must submit a single response to the PQQ and a response to each ITT.
- 9.2 Those submitting a response to the High Security Hospital ITT must ensure that they have also submitted a response to the Strategic Health Authority ITT. It is an essential requirement that an Applicant Organisation is awarded a contract to deliver Mental Health Services in a Strategic Health Authority area, in order for its tender for services at High Security Hospitals to be considered.
- 9.3 A completed tender will consist of a response to both a PQQ and an ITT:

*(1) PQQ*

- *Response to the questions*
- *Response to the Applicant Information Form (non-mandatory);*

*And, if applying for the SQM:*

- *–the Applicant Organisation must as part of the PQQ response submit a completed QM1 Form its Office Manual*

**and**

*(2) ITT*

- Response to the questions;
- Response to the Tender Information Form (Mandatory Form);  
and
- A completed Supervisor Declaration Form for each Supervisor  
*(non-mandatory).*

### **Mandatory Forms and non-mandatory forms**

- 9.4 The Tender Information Form is the only Mandatory Form, which must be submitted with the applicable ITT in order for a tender to be completed. The SQM documents are dealt with in Section 6.
- 9.5 Completed Supervisor Declaration Forms are classed as 'non-mandatory' which means they are not required at the time of submitting a tender. However, it is a condition of any contract award that you must provide this information for assessment when we request it 8 weeks before the contract start date. Consequently, we would encourage you to submit this information if possible at the time of tender.

9.6 Where any conditions of contract awards (including any evidence required by the Essential Criteria) are not met the Applicant Organisation may have its tenders rejected and/or any contract awarded will be terminated.

### **Bidding for Matter Starts**

9.7 To tender for Matter Starts:

- Depending on the ITTs you respond to, you must confirm on the Tender Information Form the number of Matter Starts that you are tendering to deliver from each Procurement Area and if applicable for each High Security Hospital
- For each Procurement Area/High Security Hospital you must tender for at least the minimum Matter Starts stated in the Essential Criteria of each ITT
- For each Procurement Area/High Security Hospital you cannot tender for more than the maximum Matter Starts available for that Procurement Area /High Security Hospital. If you do, we will reduce your tender to the maximum Matter Starts available in that Procurement Area/Hospital and allocate work based on this figure
- You cannot tender for more than the maximum capacity, set at 150 Matter Starts per full time equivalent staff member delivering Mental Health Services (full time equivalent equates to at least 35 hours per week)
- You do not need to have employed all caseworkers and Supervisors by the date you submit your response to the ITT but you must be able to provide evidence that you have recruited all staff when we contact you 8 weeks before the contract start date.

9.8 If you are tendering for matter starts in relation to both ITTs you should consider your staff members capacity across both tenders. You must not duplicate your staff members' capacity across both tenders. For example if you use a fee earner to apply for 150 matter starts for London Strategic Health Authority you can not use that fee earner's capacity to apply also for 150 matter starts in any other Procurement Area or any High Security Hospital.

9.9 Further detail as to how we will allocate Matter Starts based on bids submitted is set out in Section 10.

### **The eTendering system**

9.10 ETendering is an electronic application process used increasingly by Government and private organisations to procure contracts and commission services. It replaces paper-based forms and uses a secure Internet site as a platform through which interested parties can submit applications. It also offers a secure messaging service enabling Applicant Organisations and the LSC to communicate with each other throughout the tender process.

9.11 ETendering offers many advantages over paper-based systems:

- Access to all relevant documents in one place
- Secure portal through which to submit applications and send/receive communications
- Instant submission with no risk associated with postal failure
- Automatic acknowledgement of receipt
- Full audit trail of all transactions etc.

## Registration

9.12 Applicant Organisations may have already registered on the eTendering system as part of responding to another of the LSC's Invitations to Tender. If this is the case, you do not need to register again to access the ITTs covered by this IFA.

9.13 Applicants Organisations may also have already 'expressed an interest' or in fact completed and published their response to the PQQ on the eTendering system as part of responding to another LSC ITT. If this applies to you, please see the Important Note at paragraph 9.17.

## Steps to submitting a tender

9.14 Below we provide an overview of the steps that an Applicant Organisation must follow in order to tender to deliver Mental Health Services.

9.15 A tender will consist of your responses to the:

- (1) PQQ; and
- (2) ITT (which includes the Mandatory Form (Tender Information Form) Essential Criteria and where applicable Selection Criteria).

9.16 These steps are set out in the eTendering system, we suggest you look at the system in conjunction with reading this section:

1. Use the eTendering system to prepare a single organisation response to the Pre Qualification Questionnaire (PQQ) regardless of the number of ITTs you are interested in, or the number of Procurement Areas/High Security Hospitals you wish to tender to deliver Mental Health Services from

2. Use the eTendering system to prepare a separate response for each of the ITTs you are interested in. Each single response to an ITT will comprise of:

- **Tender Information Form**  
You must complete a Tender Information Form, providing details for each Strategic Health Authority or High Security Hospital you are tendering to deliver work at, giving details about the volume of work you are tendering for, and information about how the work tendered for will be delivered, including staff details.
- **Essential Criteria**  
You must prepare a single organisational response per ITT and you must warrant that the services that you are tendering to deliver in each Procurement Area or High Security Hospital meet the Essential Criteria.
- **Indemnities**  
You must commit to providing an indemnity if you are an Applicant Organisation with limited liability (unless you are a registered charity)
- **PQQ and ITT Declarations**

You must confirm that the PQQ is up to date and certify on behalf of the Applicant Organisation that your response to the ITT is accurate.

In addition, the High Security Hospital ITT will include:

- Selection Criteria

You must prepare a single organisational response to the Selection Criteria confirming how your organisation meets each of the Selection Criteria.

3. Once you have completed your response you must ensure you submit ('publish') it.

**Important Note: if you have already expressed an interest or responded to the PQQ on the eTendering system in relation to another LSC ITT.**

9.17 You must as part of your response to these ITTs submit a response to the PQQ on the eTendering system.

9.18 You may though have already 'expressed an interest' or in fact completed and submitted a response to the PQQ as part of responding to another LSC invitation to tender.

9.19 To avoid you having to fill in a new PQQ each time you submit a response to an ITT, the eTendering system is designed so that it saves your latest response to the PQQ. However, this means that you will need to review your response to ensure that you have answered all required questions and the information provided is accurate.

9.20 As part of your response to the ITT(s), you will be required to confirm that a response to the PQQ has been submitted and that the information contained in the last response remains accurate and up to date at the time of submitting the ITT.

9.21 In relation to this tender process, at 12 noon on 31 March 2010, we will extract your response to the PQQ held on the eTendering system. We will assess on the basis of the latest information included in the response to the PQQ submitted to us before this closing time and date.

**Pre Qualification Questionnaire (PQQ)**

9.22 The PQQ's purpose is to enable us to assess whether an Applicant Organisation meets our minimum standards of suitability for a publicly funded legal aid contract and to gather certain other information about Applicant Organisations.

9.23 The PQQ covers the following areas:

- Are there any mandatory grounds for rejection of the Applicant under regulation 23(1) of the Public Contracts Regulations 2006 (Applicants or Key Personnel convicted of conspiracy, bribery, fraud, money laundering)?
- Requirement to have 1 year's managerial experience and 3 years' experience of delivering specialist legal advice
- Requirement to have a complaints process, and no history of complaints being upheld and sanctions applied by a regulatory/complaints body, or

upheld professional negligence claims, in the last 3 years (in relation to publicly funded areas of law only)

- Requirement to have appropriate professional indemnity, public liability and employers' liability insurance cover
- Requirement to comply with workplace legislation (data protection, equalities and health and safety at work) by having appropriate policies and procedures and an acceptable history of discrimination claims in the last 3 years
- An acceptable history of business conduct including interventions and adverse findings by regulatory bodies, bankruptcy/insolvency, terminations for fault of public sector contracts, criminal convictions and failures to repay money owing on public sector contracts
- Confirmation that the Applicant Organisation has met its tax, VAT and NI liabilities
- Confirmation that the Applicant Organisation will hold an appropriate quality standard (SQM or Lexcel)

9.24 A full version of the PQQ can be found on the eTendering system through the 'PQQs open to all suppliers' link.

9.25 Some answers to PQQ questions will be assessed on a pass/fail basis and do not offer an opportunity for Applicant Organisations to give further exceptional circumstances. In relation to these types of questions the requirement to have the required experience is absolute and is a mandatory grounds for failing the PQQ.

9.26 Other questions on the PQQ provide an opportunity to set out exceptional circumstances where an Applicant Organisation considers that it cannot meet the requirements but that exceptional circumstances apply which mean that the Applicant Organisation should be considered by us as still meeting the PQQ requirement.

9.27 It is the Applicant Organisation's responsibility to ensure that it makes full use of this opportunity in order to provide comprehensive details of any exceptional circumstances. We are under no obligation to seek further information or clarify a response – and will not do so where in our opinion this would give an Applicant Organisation an unfair opportunity to improve their response.

9.28 The opportunity to give exceptional circumstances cannot not be used to provide other supplementary information to your PQQ or ITT. Information incorrectly submitted, as exceptional circumstances that is intended only to enhance your bid, will not be considered.

9.29 If an Applicant Organisation fails any PQQ question, the PQQ will be unsuccessful and none of the Applicant Organisation's tenders will be considered further.

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

9.31 Therefore we do encourage you to complete and attach the relevant Applicant Information Form (Private Sector or Not for Profit as appropriate), however, where an Applicant Information Form is not uploaded and submitted as part of a tender response, it will not result in a tender being rejected.

### **Invitation to Tender (ITT)**

9.32 As previously outlined, there will be two ITTs - one covering work in Strategic Health Authority Procurement Areas and the other covering High Security Hospitals.

9.33 Applicant Organisations can access the ITTs either by clicking on the 'ITTs open to all suppliers' link, which will bring up a list of all ITTs currently open or by clicking on the 'Projects' link and then going to 'Publicly Funded Mental Health Services'.

9.34 Applicant Organisations should select the ITT that they would like to view by clicking on the ITT title. This will bring up an overview of the ITT. Applicants can then decide whether they would like to 'express an interest' to the ITT and 'reply' to it (these links can be found on the left-hand side of the page).

### **What is in the ITT?**

9.35 Both ITTs comprise of the following sections set out in a single page of the eTendering system:

- Tender Information (comprising the separate Tender Information Form)
- Essential Criteria
- Indemnities
- Declarations (see point 2 at paragraph 9.6)

9.36 The High Security Hospital ITT will contain an additional section that covers Selection Criteria. This will appear on the page after the Essential Criteria.

### **Tender Information Form (Mandatory Form)**

9.37 Applicant Organisations must complete and upload with their response to the ITT, the Tender Information Form. There is a facility in the right hand side of the screen (Buyer Attachments) to download the Tender Information Form. We require Applicant Organisations to submit the following information on this form, which will form part of the tender, about each Strategic Health Authority Procurement Area or High Security Hospital in which they are tendering to deliver Mental Health Services as part of the ITT:

- Matter Starts that organisations are bidding to be delivered from that Strategic Health Authority/High Security Hospital (Section 1)
- Whether they would like an allocation for tolerance work (see 10.18 below) (Section 1)
- Presence arrangements including Office address where this is relevant (for High Security Hospitals this must be the Office address from which the work will be administered) (Section 2)

- Any existing LSC account number for the Office that will support the delivery of services in that Strategic Health Authority or High Security Hospital (Section 2)
  - Information about staff members that will deliver the Mental Health Services tendered for (Section 4)
- 9.38 Applicant Organisations must click 'Yes' if a message comes up when opening the form to enable macros. If your computer settings prevent the use of macros please see the guidance on enabling macros set out at Annex E to this IFA. Applicant Organisations must first click the 'Show form' button and they must then add the name of their organisation to the front page. To add details of a Strategic Health Authority or High Security Hospital where you are tendering to deliver services you must click the 'Add New' button. You will then see a new blank page, which you complete for that Strategic Health Authority or High Security Hospital. Sections 1, 2 and 4 must be completed – Section 3 will automatically populate based on the information provided. All information requested in the Tender Information Form must be entered, with the exception of information about an existing LSC Account Number which is required only for those Applicant Organisations that currently hold an LSC contract and the tolerance Matter Start box which must only be completed if the Applicant Organisation wishes to tender for tolerance Matters.
- 9.39 The information given in section 4 relates to the hours and roles of staff members delivering work in that particular Procurement Area. For example, if a FTE member of staff will work half their time in one Strategic Health Authority Procurement Area and half in another, Applicants must enter their details in the forms for each Strategic Health Authority area (they will be able to select the name from a drop down list where it has previously been entered), giving their time as 17.5 hours (half a full FTE week of at least 35 hours) in both cases. The form will automatically calculate the FTE of every staff member for whom details are provided based on the number of hours per week entered.
- 9.40 Where Applicant Organisations fill in staff details at Section 4 and have posts vacant, they must type 'vacant' into the 'Name of Staff Member' field and complete the rest of the information, which they expect will be true of the post holder they intend to recruit. For example, if an Applicant Organisation intends to recruit a Supervisor, it must select the 'Supervisor' option from the drop down menu.
- 9.41 Once details of the Procurement Area or High Security Hospital have been entered, Applicant Organisations must click 'OK' to save it. The front page will now list the Procurement Area and some of the details that have just been entered. Applicant Organisations must click 'OK' to close the form and must then save it on their system. However, if necessary, to complete details of any further Procurement Areas or High Security Hospitals, Applicants must click 'Add New' and provide details again following the process set out above.
- 9.42 There are separate Tender Information Forms attached to the Strategic Health Authority and High Security Hospital ITTs. For the Strategic Health Authority ITT Applicant Organisations must add details for each Strategic Health Authority in which they are tendering to deliver services in response to that ITT. Similarly, for the High Security Hospital ITT Applicant Organisations must add details for each High Security Hospital they are tendering to deliver services at.

## **Essential Criteria**

- 9.43 The next section of the ITT sets out the Essential Criteria and related questions.
- 9.44 The questions in this section will seek confirmation that the Applicant Organisation meets the minimum service requirements to be considered for the award of a contract to deliver Mental Health Services (see Annex A for a list of Essential Criteria we will apply in each ITT).
- 9.45 Whilst this stage must be completed only once by an Organisation per ITT, we are asking Applicant Organisations to warrant their responses in relation to **ALL** the Mental Health Services they wish to deliver as part of their response to the ITT. For example, if an Applicant Organisation wished to bid to deliver Mental Health Services in the East of England and London, then it would have to ensure that the services provided in both Procurement Areas could meet the Essential Criteria before answering these questions.
- 9.46 All the questions in this section require an answer of Yes or No. One Essential Criterion in the Strategic Health Authority ITT relates to an Applicant Organisation's Mental Health Supervisors. There is a facility in the right hand side of the screen (Buyer Attachments) to download the Mental Health Supervisor Self Declaration Form.
- 9.47 This form must be downloaded and completed with details of each Mental Health Supervisor who is currently in post to deliver the Mental Health Services tendered for. It must then be uploaded with the response. The Supervisor Self Declaration Form available contains 5 replications of the forms so that where an Applicant Organisation has more than one Supervisor, details of all can be provided. If an Applicant Organisation has more than 5 Supervisors, it must submit an additional form with these details through message boards within the eTendering system.
- 9.48 If an Applicant Organisation does not currently have a Supervisor in post then it will not need to upload the Supervisor Self Declaration Form with their tender. However, it must confirm and provide us with a Mental Health Supervisor Self Declaration Form once this individual is recruited and in any event 8 weeks before the contract start date.
- 9.49 Supervisor Declaration Forms are not Mandatory Forms, however it will be a condition of contract that we receive these at least 8 weeks prior to the contract start date. Therefore, where possible Applicant Organisations are encouraged to submit these forms with its tender.
- 9.50 Where any conditions of contract awards (including any evidence required by the Essential Criteria) are not met the Applicant Organisation may have its tenders rejected and/or any contract awarded will be terminated.

## **Selection Criteria (High Security Hospital ITT only)**

- 9.51 After completing questions regarding the Essential Criteria, Applicant Organisations responding to the High Security Hospital ITT must then go on to consider the next section covering Selection Criteria. Selection Criteria are not

all equally weighted and you must review Annex B which contains the scoring mechanisms for the Selection Criteria for the High Security Hospital ITT.

- 9.52 Like the Essential Criteria, the Selection Criteria also require answers which apply at organisational level. Each Selection Criterion is linked to a question for which there are a number of possible answer options presented in a series of drop down lists.
- 9.53 For each Selection Criterion Applicant Organisations are required to select the appropriate option from the drop down list. Applicant Organisations must respond to all Selection Criteria.
- 9.54 We do not require that Applicant Organisations submit any additional information about the services they will deliver beyond that requested on the ITT. As this is an open and fair tender process in which all applicants are assessed on an equal basis, any additional information provided will not be considered.

**What happens once a response is 'published'?**

- 9.55 Responses to ITTs submitted will be treated as sealed bids. This means that the LSC will not open any responses until after the deadline for the tender exercise.
- 9.56 Applicant Organisations can therefore amend and resubmit their responses to the ITTs up until the closing date for tenders to be submitted.
- 9.57 Responses will be automatically acknowledged when they are published for the first time. There will be no acknowledgement of resubmitted responses where Applicant Organisations amend and republish their response to an ITT. We will assess the latest published response.

## **Section 10: How will tenders be assessed and Matter Starts awarded?**

### **Opening Procedure**

10.1 Responses submitted by Applicant Organisations will not be opened until after the deadline has passed. An authorised LSC representative will open responses and all responses to the same ITT will be opened at the same time (parallel opening) to ensure fairness.

### **PQQ**

10.2 The PQQ consists of a series of yes/no questions that are designed to test compliance with our requirements.

10.3 We expect all Applicant Organisations to confirm compliance with all our PQQ requirements. If an Applicant Organisation fails the PQQ then it will not be considered further and their tender will be unsuccessful.

10.4 At 12 noon on 31 March 2010, we will extract your response to the PQQ held on the eTendering system. We will assess on the basis of the latest information included in the response to the PQQ submitted to us before this closing time and date.

### **Essential Criteria**

10.5 The Essential Criteria reflect the minimum service requirements that we want all Providers delivering Mental Health Services to meet.

10.6 All Essential Criteria will be assessed on the basis of pass or fail and any Applicant Organisation unable to confirm that they meet all our requirements will have their response to the ITT rejected.

10.7 The process for assessing Strategic Health Authority ITTs will end here and we will allocate Matter Starts to all Applicant Organisations meeting the Essential Criteria (see 10.17 for further information) subject to the application of the capacity test.

### **Capacity Test to be applied to all Applicant Organisations passing the PQQ and the Essential Criteria**

10.8 At this stage, we will only consider bids from Applicant Organisations that have passed both the PQQ and the Essential Criteria (in relation to the both ITTs).

10.9 Where an Applicant Organisation exceeds the maximum number of Matter Starts of 150 per full time equivalent staff member delivering the services (across both ITTs if applicable), we will reduce the number of Matter Starts we allocate in accordance with the process set out below.

- If an Applicant Organisation references the same staff member as a full-time equivalent across multiple Procurement Areas and if applicable High Security Hospitals, we will reduce the number of Matter Starts allocated to the staff member evenly across the number of Procurement Areas/High Security Hospitals in which the staff member is referred to. For example, if

the same staff member delivering Mental Health Services is submitted by an Applicant Organisation as being a full-time equivalent in both the North West and Ashworth hospital and presented as delivering the maximum capacity of 150 Matter Starts in each, we will reduce the bid in both the North West and Ashworth hospital to 75 Matter Starts.

- We will need to ensure that the matters advertised in the ITTs are allocated to Applicant Organisations who have demonstrated to us confidence that they are able to deliver Mental Health services from 14 October 2010, the contract start date. We will therefore reduce the initial award of Matter Starts to Applicant Organisations who have posts vacant at the time of tendering to reflect a lower level of confidence of delivery against a vacant post. This will be set at 50% of the maximum capacity per FTE (i.e.75 Matter Starts). Where we have allocated this lower number of Matter Starts and the Applicant Organisation is able to confirm the full details of the individuals who have filled the vacancies 8 weeks before the contract start date, the full allocation will be awarded.
- We will undertake a verification exercise against all Applicant Organisations awarded Matter Starts 8 weeks before the start of the contract to ensure that information provided in tenders remains current. We will adjust matter starts if the actual staffing levels do not correspond with the capacity test.

#### **Selection Criteria – High Security Hospitals only**

- 10.10 Selection Criteria will be applied to the High Security Hospital ITT when the total volume of Matter Starts bid for at a High Security Hospital by those passing the Essential Criteria is greater than the total Matter Starts available in that High Security Hospital.
- 10.11 If we are **not** able to award all these Applicant Organisations' the Matter Starts they have tendered for at a High Security Hospital, Selection Criteria relevant to the ITT will be applied.
- 10.12 Selection Criteria will be considered against each Applicant Organisation regardless of the number of High Security Hospitals it wants to deliver services at.
- 10.13 Set out in Annex B is an outline of the Selection Criteria and how they will be scored. Each answer to a question is allocated a certain number of points. A higher number of points will be awarded to those Applicant Organisations that demonstrate a better fit with our requirements. Exceptional circumstances may be entered where an Applicant Organisation considers that it cannot meet the requirements but that exceptional circumstances apply which mean that the Applicant Organisation should be considered by us as still meeting the requirement.
- 10.14 We will total up the points awarded to each Applicant Organisation. This will give each Applicant Organisation a single total score for the Selection Criteria.
- 10.15 The Applicant Organisation's single score will then be used in the ranking of all bidders for each High Security Hospital. So for example, an Applicant Organisation bidding to deliver Matter Starts in Rampton and Broadmoor hospitals receives a total score for the Selection Criteria of 20. This score of 20

will be used to place the Applicant Organisation in the ranking of all the Applicants who bid for Rampton hospital, and again in the ranking of all the Applicants who bid for Broadmoor hospital.

- 10.16 Subject to the Essential Criteria, once we have ranked all Applicant Organisations by High Security Hospital we will first award Matter Starts to the Applicant Organisation ranked the highest and continue down the rankings until all available Matter Starts at the High Security Hospital have been allocated. This exercise will be undertaken for each High Security Hospital where we need to apply Selection Criteria.

#### **Allocation – Strategic Health Authority ITT**

- 10.17 As set out above, all Applicant Organisations passing the PQQ and Essential Criteria will be awarded Matter Starts in Strategic Health Authority Procurement Areas. We will allocate Matter Starts at Strategic Health Authority level; for example, all Applicant Organisations bidding to deliver Mental Health Services in the North East will be allocated Matter Starts in the same pool.

- 10.18 We will first allocate each successful Applicant Organisation the minimum Matter Start size of 30. Subject to the capacity test (see 10.17), any remaining Matter Starts available in the Procurement Area will then be allocated up to the levels bid for in each of the successful Applicant Organisations' tenders. If allocating to the levels bid for in each of the successful Applicant Organisations' tenders will exceed the Matter Starts available, all providers' bids will be reduced on a pro rata basis to ensure a fair allocation of work to all Applicant Organisations that pass the PQQ and meet the ITT Essential Criteria .

#### **Example**

1,800 Matter Starts are available. Matter Starts bid for are as follows by Applicant Organisations that pass the PQQ and meet the Essential Criteria.

Applicant Organisation 1: 500  
Applicant Organisation 2: 600  
Applicant Organisation 3: 200  
Applicant Organisation 4: 300  
Applicant Organisation 5: 400

Total Matter Starts Bid for is 2,000 or 10% more than the Matter Starts available. All Applicant Organisations are awarded the minimum of 30 Matter Starts which leaves 1,650 to be awarded. In this example no Applicant Organisations are impacted by the capacity test and to make awards, all bids receive a pro rata reduction of 10% and Matter Starts are offered as follows:

Applicant Organisation 1: 450  
Applicant Organisation 2: 540  
Applicant Organisation 3: 180  
Applicant Organisation 4: 270  
Applicant Organisation 5: 360

Total Matter Starts awarded is 1,800.

## **Allocation – High Security Hospitals ITT**

10.19 High Security Hospitals will be subject to consideration of Selection Criteria and the following rules will be applied in allocating Matter Starts:

- a) Where we are unable to distinguish between Applicant Organisations and a number of them are tied on the same score, we will pro rata available Matter Starts based on the total proportion of work bid for amongst those tied Applicant Organisations against the available Matter Starts.
- b) If we have received a sufficient number of tenders and through ranking we are unable to award to at least three Applicant Organisations, we will reduce tenders to achieve this. We would first seek to allocate the highest ranked organisation what it has bid for, if we can do this (i.e. if there are sufficient Matter Starts left over to allocate to the next two highest ranked providers to at least the minimum Matter Start size) we will. If we are unable to do this, we will reduce the top ranked organisation's allocation to ensure there are sufficient Matter Starts to award to two further organisations. We will go down the ranking in this way until we have awarded to at least three providers.
- c) Where we reduce tenders or allocate tenders on a pro rata basis we will never allocate below the Minimum New Matter Start size of 30, even if this results in over-allocation against Matter Starts advertised.

## **Appeals**

10.20 A completed tender will consist of (1) a response to the PQQ **and** (2) a response to an ITT (including the Mandatory Form) submitted prior to the deadline of 12 noon on 31 March 2010.

10.21 Where a tender (or any part it) is unsuccessful or rejected, the Applicant Organisation will be given written reasons as to why it was unsuccessful or rejected.

10.22 There will be no right of appeal against a decision to reject a tender if it is incomplete or if a tender (or any part of it) is received after 12 noon on 31 March 2010 (or after any deadline set by a request for clarification or further information) or is not received by the LSC at all.

10.23 There will be a right of appeal if a tender is unsuccessful in the following circumstances:

- i. where the Applicant Organisation does not pass the PQQ;
- ii. where the Applicant Organisation does not pass the Essential Criteria;
- iii. where the Applicant Organisation does not comply with paragraph 11.2 *and* a notice that the tender is unsuccessful stipulates a right of appeal; *and*
- iv. where the Applicant Organisation is unsuccessful, because its tender (or any part of it) ranks lower than other Applicant Organisations' tenders following assessment of the Selection Criteria, and it is subsequently not awarded any contract work.

- 10.24 Appeals will only be accepted if made through the eTendering system and must be received prior to the applicable deadline(s) set out in Section 3. An appeal submitted after the applicable deadline, in any other form or by any other method will not be considered.
- 10.25 The Legal Director (or the Legal Director's appointed representative) will review all appeals, and will determine the procedure and will decide whether to invite or require any further information from the Applicant Organisation, before making a determination on the appeal.
- 10.26 There will be no further right of appeal.

## **Section 11 Terms and Conditions of tender**

- 11.1. The Applicant Organisation's participation in the tendering exercise for publicly funded Mental Health Services covered by the 2010 Standard Civil Contract are governed by these Terms and Conditions of Tender. The Applicant Organisation must also comply with the User Agreement governing use of the LSC eTendering System and all rules, conditions of contract award and instructions set out in any Tender Document.
- 11.2. Submission of a tender which fails to comply with any Terms and Conditions of Tender, User Agreement or other rules, conditions of contract award and instructions shall, without affecting the Applicant Organisation's liability for non compliance, entitle the LSC to reject a tender, assess the tender as unsuccessful and/or entitle the LSC not to proceed with any decision made to award the Applicant Organisation a Contract or entitle the LSC to terminate the contract pursuant to Clause 25 of the Standard Terms.
- 11.3. A tender must be submitted by 12 noon on 31 March 2010 ("the deadline"). For the purposes of this deadline, it is understood that the time on the eTendering System shall be the definitive time.
- 11.4. By submitting a tender, the Applicant Organisation is agreeing to comply with any conditions of contract award (including any requests for evidence) stated in the Tender Documents and the Terms and Conditions in the Contract if it is awarded one.
- 11.5. The Applicant Organisation acknowledges that the award of a 2010 Standard Civil Contract does not guarantee any minimum amount of work. Work under the Contract, including that which may arise from rotas or slots type arrangements, is dependent on a successful Applicant Organisation attracting clients, and is subject to amendment under the terms of the Contract.
- 11.6. All tenders and appeals must be submitted on the eTendering System at [www.legalservices.bravosolution.co.uk](http://www.legalservices.bravosolution.co.uk). A tender or appeal submitted in any other form, or by any other method, will not be considered.
- 11.7. For a tender to be complete, the Applicant Organisation must, prior to the deadline, submit a tender consisting of (1) a response to the PQQ **and** (2) a response to an ITT (including the Mandatory Form).
- 11.8. The Applicant Organisation must not amend or alter any document comprising part of the tender after the deadline.
- 11.9. After the deadline any information or documents submitted in response to a request for clarification or further information (in accordance with paragraph 11.25) will also form part of the Applicant Organisation's tender.
- 11.10. In the event of any conflict between the information, answers or documents submitted as part of a tender, the conflict will be resolved by accepting the information, answer or document least favourable to the Applicant Organisation.
- 11.11. It is the responsibility of Applicant Organisation to make sure that a tender is fully and accurately completed (including any Mandatory Forms). The LSC is

under no obligation to contact the Applicant Organisation to clarify its tender or to obtain missing information or Mandatory Forms.

- 11.12. It is the responsibility of the Applicant Organisation to make sure that it submits a tender in good time to take account of any problems or delays in uploading the tender and documents requested by the LSC, accessing the LSC eTendering System owing to heavy usage, internet access or with the Applicant Organisation's own IT systems.
- 11.13. The Applicant Organisation is solely responsible for the costs and expenses incurred in connection with the preparation and submission of tender and all other stages of the tender process. Under no circumstances will the LSC, or any of its employees, be liable for any costs.
- 11.14. The Applicant Organisation must reply to all the questions in order to respond to the PQQ and the ITT, even if it has previously provided this information or if it thinks the LSC is already aware of it (e.g. if the Applicant Organisation holds an existing contract with the LSC).
- 11.15. The Applicant Organisation must not submit a tender which contains any information which the Applicant Organisation knows to be, or has reason to be, false or misleading in accordance with Clause 18 of the 2010 Standard Civil Contract Standard Terms. If information given by the Applicant Organisation is subsequently found to be false or misleading, this may lead to the Applicant Organisation's tender being unsuccessful and/or entitle the LSC not to proceed with any decision made to award the Applicant Organisation a Contract or entitle the LSC to terminate the contract pursuant to Clause 25 of the Standard Terms.
- 11.16. If, because an Application Organisation has registered more than once on the LSC eTendering system or, for any other reason, more than one response to the PQQ or an ITT is received by the LSC the latest response submitted by an Applicant Organisation prior to the deadline shall be the response that is considered by the LSC in the assessment and award process.
- 11.17. The Applicant Organisation may amend and re-submit their response to the PQQ and/or each ITT at any time up to the deadline. If so amended and re-submitted by the Applicant Organisation the latest response submitted by an Applicant Organisation prior to the deadline shall be the response that is considered by the LSC in the evaluation and award process.
- 11.18. The person who submits a tender must be a member of the Applicant Organisation's Key Personnel with appropriate authority to submit a tender for the Applicant Organisation.
- 11.19. A tender will be rejected if it (or any part of it) is submitted after the deadline nor will the LSC consider (1) requests to submit the tender (or any part of it) after the deadline or (2) requests for an extension of the time or date fixed for the submission of the tender (or any part of it).
- 11.20. A tender will be unsuccessful where, following assessment, the Applicant Organisation:
  1. fails to pass the PQQ;
  2. fails to pass the Essential Criteria;

and/or

3. has its tender (or any part of it) ranked lower than other Applicant Organisations' tenders following assessment of the Selection Criteria, and it is subsequently not awarded contract work.

11.21. The LSC reserves the right to amend at any time any of the Tender Documents and the Contract or to issue clarifications (including in response to questions and answers from Applicant Organisations) or to correct errors or omissions provided that in all cases any such amendment is not sufficiently material to amount to a new tender or contract for the purposes of the Public Contracts Regulations 2006. Subject to paragraph 11.24, any notices of amendment etc will be published on the LSC website tender pages (CLS > Tenders > Civil 2010 Contracts) and sent by email to all Applicant Organisations that have expressed an interest in the relevant ITT and/or PQQ.

11.22. A submitted tender, which does not comply with any additional or alternative Terms and Conditions of Tender, rules, conditions of contract award and instructions (or other qualifications) introduced in accordance with paragraph 11.21 above, may be rejected or unsuccessful.

11.23. Any communications about the Tender Documents will be given by notice published on the LSC website tender pages (CLS > Tenders > Civil 2010 Contracts) and sent by email to all Applicant Organisations that have expressed an interest in the relevant ITT or PQQ.

11.24. After the deadline, notices (pursuant to paragraph 11.21) relating to the 2010 Standard Civil Contract will be published on the LSC tender pages of website (CLS > Tenders > Civil 2010 Contracts) only.

11.25. Should the LSC, at any time during the tender process, request the Applicant Organisation to give additional information/clarification the Applicant Organisation should be prepared to provide additional information and/or clarify any aspect of a tender by the deadline set out in the request. The LSC reserve the right to validate any part of the Applicant Organisation's tender and information subsequently given to it.

11.26. Any questions and answers posted on the LSC website during the tender process (or before) will not form part of any contract subsequently awarded (unless the LSC notifies Applicant Organisations as part of the answers posted that it will amend the Contract accordingly).

11.27. The LSC reserves the right to cancel the invitations to tender or PQQ covered by this IFA in their entirety or in part, and not to proceed to award contracts or to suspend any stage of the process at any time at its absolute discretion.

11.28. The Applicant Organisation agrees to keep any tender valid and capable of acceptance by the LSC up the 14 October 2010 (Contract start date).

11.29. The right of appeal for an unsuccessful Applicant Organisation is limited to that set out paragraph 10.20 to 10.26.

11.30. After assessment is complete, the LSC will retain copies of tenders for such time as it considers reasonable to satisfy the LSC's audit obligations and for any associated contract management purposes.

- 11.31. All intellectual property rights in the Tender Documents and any associated documents are and shall remain the LSC's property.
- 11.32. While the LSC have taken all reasonable steps to ensure, as at the date of the issue of the Tender Documents, that the facts which are contained in the Tender Documents and associated documents are true and accurate in all material respects, it does not make any representation or warranty as to the accuracy or completeness or otherwise of these documents, or the reasonableness of any assumptions on which these documents may be based.
- 11.33. All information supplied by the LSC to the Applicant Organisation or potential applicants, including that within the Tender Documents, is subject to that Applicant Organisation's own due diligence. The LSC accepts no liability to the Applicant Organisation or potential applicants whatsoever resulting from the use of the Tender Documents, or any omissions from or deficiencies in them.
- 11.34. Without prejudice to any warranties given, the rules, instructions, conditions of contract award and Terms and Conditions of Tender contained in this Tender Documents, do not form a separate collateral contract between the Applicant Organisation and the LSC. The relevant parts of the Applicant Organisation's tender may form part of any Contract subsequently awarded.
- 11.35. If an Applicant Organisation changes its status or any material element of its tender including management or Key Personnel, between submitting its tender and being awarded a Contract, the LSC must be informed of this as soon as possible in writing. The LSC reserve the right (depending on the nature and effect of the change in status) to revoke any contract award made and may request the new Applicant Organisation (post-change) to submit a fresh tender.
- 11.36. The Applicant Organisation must not, and must ensure that its employees, partners, directors, Key Personnel and agents must not;
- (a) canvass any officers, employees, agents or advisers of the LSC in connection with this tender process; or
  - (b) offer or agree to pay or give any sum of money, inducement or valuable consideration (directly or indirectly) to any person for doing or having done or causing or having caused to be done in relation to this tender, any act or omission.
- 11.37. The Applicant Organisation must not enter into any agreement or arrangement with any other person or organisation about whether it should or should not tender, or to fix or adjust the amount of any tender, or collude with any such other person or organisation in any way, in this tender process.
- 11.38. Nothing in these Terms and Conditions prevents the Applicant Organisation from approaching or recruiting employees or agents to undertake work covered by this tender process on behalf of the Applicant Organisation.
- 11.39. If the Applicant Organisation is a legal entity with limited liability (unless it is a registered charity) any Contract awarded will be conditional upon the Applicant Organisation supplying the LSC with a relevant indemnity form signed by the ultimate owners of the Applicant Organisation and/or such persons as the LSC might reasonably regard as being controllers and/or senior managers of the

organisation and/or where the Applicant Organisation is a limited company, from any company which is a holding company.

***Confidentiality and Freedom of Information Act 2000***

11.40. The LSC may share any information contained in an Applicant Organisation's tender with Bravo Solutions Limited for the purposes of administering the tender process.

11.41. The Applicant Organisation should note that under the Freedom of Information Act 2000 (the "FOIA") the LSC may be required to disclose details of its tender in response to a request from third parties, either during or after the tender process. The LSC can only withhold information where it is covered by a valid exemption as set out in the FOIA.

11.42. If an Applicant Organisation is concerned about possible disclosure it should contact the LSC and clearly identify the specific parts of the tender that it consider commercially sensitive or confidential (within the meaning of the FOIA), the harm that disclosure may cause and an estimated timescale for that sensitivity. The Applicant Organisation should familiarise itself with the Information Commissioner's current position on the disclosure and non disclosure of commercially sensitive information and therefore should not notify us of blanket labelling of all its tender as confidential.

11.43. The Applicant Organisation should also be aware that the receipt by the LSC of information marked 'confidential' does not mean that the LSC accepts any duty of confidence in relation to that marking. Neither does the LSC guarantee that information identified by the Applicant Organisation as confidential will not be disclosed where the public interest favours disclosure pursuant to our obligations under FOIA.

11.44. It is important to note that the sensitivity of information is likely to change over time and therefore it is likely that general contract details will be disclosed once the tender process is complete.

11.45. The LSC, will collect, hold and use personal data obtained from and about the Applicant Organisation and its Key Personnel during the course of the tender process ("Personal Data").

11.46. The Applicant Organisation must agree to such Personal Data being collected, held and used in accordance with and for the purposes of administering the tender process as contemplated by the Tender Documents and for contract management of any Contract subsequently awarded.

11.47. The Applicant Organisation warrants, on a continuing basis, that it has:

- a. all requisite authority and has obtained and will maintain all necessary consents required under the Data Protection Regulations (which means the Data Protection Act 1998, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all relevant regulations together with any codes of conduct and guidance issued by the Information Commissioner);and

- b. (b) otherwise fully complied with all of its obligations under the Data Protection Regulations, in order to disclose to the LSC the Personal Data, and allow LSC to carry out the tender process. The Applicant Organisation shall immediately notify the LSC if any of the consents is revoked or changed in any way which impacts on the LSC's rights or obligations in relation to such Personal Data.

## Section 12 Definitions

Many of the phrases used in the Tender Documents are explained in the relevant paragraph of this IFA. Further definitions are set out in the 2010 Standard Civil Contract and are not repeated here.

**Set out below are some summary definitions you may find helpful.**

All references to "Contract", contract, Contract for Signature, Standard Terms, Specification, Schedule means the terms of the 2010 Standard Civil Contract;

*"Applicant Organisation(s)" and "Applicant" or "you"* means a single legal entity tendering to deliver Mental Health Services;

*"Confirmed Peer Review"* means at the conclusion of the peer review process, following appeal and any follow-up audit;

*"Data Controller"* is a person or organisation that determines the purposes for which, and the manner in which, personal information is processed with reference to the Data Protection Act 1998;

*"Equalities Legislation"* refers to the:

Equal Pay Act 1970;  
Sex Discrimination Act 1975;  
Race Relations Act 1976;  
Disability Discrimination Act 1995;  
Employment Rights Act 1996;  
Human Rights Act 1998;  
Sex Discrimination (Gender Recognition) Regulation 1999;  
Part Time Workers (Prevention Of Less Favourable Treatment) Regulations 2000;  
Fixed Term Employees (Prevention Of Less Favourable Treatment) Regulations 2000;  
Employment Act 2002;  
Employment Equality (Sexual Orientation) Regulations 2003;  
Employment Equality (Religion Or Belief) Regulations 2003;  
Gender Recognition Act 2004;  
Civil Partnership Act 2004;  
Equality Act 2006;  
Work And Families Act 2006;  
Employment Equality (Age) Regulations 2006; or

any other equivalent legislation in a foreign state where the Applicant Organisation employs staff or engages in business activities;

*"eTendering System"* means the online system that will be used to run the tender process and through which Applicant Organisations must submit tenders;

“Mandatory Form(s)” means forms (or other documents or information) that must be submitted as part of a tender. Submission of Mandatory Form after the deadline will mean a tender is rejected;

“*Mental Health Category of Law*,” has the meaning defined by the Funding Code;

“*Mental Health Services*” means face-to-face advice (and where appropriate Representation) to Clients in the Mental Health Category of Law. It does not include triage or initial general advice;

“*Individual Voluntary Arrangement*” or “*IVA*” or is a formal agreement between you and your creditors, to make reduced payments towards the total amount of your debt;

“*Information Commissioners Office (ICO)*” is an independent authority sponsored by the Ministry of Justice, to oversee the Data Protection Act, the Freedom of Information Act and the Environmental Information Regulations;

“*Information for Applicants*” or “*IFA*” means the document that contains information, instructions, rules, conditions of contract award and ‘Terms and Conditions’ of Tender that will govern the tender process and the other Tender Documents (PQQ and ITTs);

“*Invitation to Tender*” or “*ITT*” means the specific Mental Health Services that Applicant Organisations can tender against. For this tender process there are two separate ITTs which can be accessed via the eTendering system;

“*Key Personnel*” means any person who has powers of representation, decision or control of an organisation including partners, directors and trustees;

“*Partnership Voluntary Arrangement or PVA* ” is a formal agreement with the partnership’s creditors to repay their debts either in full or more likely partially over a fixed period of time;

“*Regulatory Bodies*” means the Law Society, the Solicitors’ Regulation Authority, Bar Council, National Citizens’ Advice Bureau or the equivalent organisation in a foreign jurisdiction;

“*Specialist Legal Advice*” means giving legal advice where you are taking action on behalf of the clients in order to move the case forward, with the adviser taking responsibility for further action. This includes negotiation and representing the client to third parties on the telephone, by letter or face to face. This also includes providing litigation and advocacy services. It does not include triage or initial general advice; and

“*Tender Documents*” means this IFA, the PQQ and ITTs including any attachments or Mandatory Forms.

“*Terms and Conditions of Tender*” means the provisions set out in Section 11 of this IFA.

## ANNEX A: ESSENTIAL CRITERIA

<b>Strategic Health Authorities</b>
By 14 October 2010 the Applicant Organisation must have an Office in England or Wales that complies with the Permanent Presence requirements. Evidence of this must be provided 8 weeks prior to 14 October 2010.
By 14 October 2010, in each Procurement Area that the Applicant Organisation is tendering to deliver services, it must either have an Office which is a Permanent Presence or meet the Alternative Arrangements described in the 2010 Standard Civil Contract (Section 9.5) relating to presence for Mental Health Services. Evidence of this must be provided 8 weeks prior to 14 October 2010.
By 14 October 2010, in each Procurement Area that the Applicant Organisation is tendering to deliver services, it must be able and willing to deliver Mental Health Services to both detained and non-detained Clients covering both Mental Health Tribunal and non-Mental Health Tribunal work.
By 14 October 2010, in each Procurement Area that the Applicant Organisation is tendering to deliver services, it must be able and willing to deliver both the following levels of Mental Health Services: - Legal Help; and - Controlled Legal Representation
By 14 October 2010, in each Procurement Area that the Applicant Organisation is tendering to deliver services, it must either be able and willing to deliver Legal Representation through employment of an Authorised Litigator or have a referral process in place with an organisation that employs an Authorised Litigator where Clients can be referred for appropriate advice and representation.
The Applicant Organisation must not have received a 'Confirmed Peer Review' rating of 4 or 5 in the Mental Health Category of Law since 10 February 2007.
By 14 October 2010 the Applicant Organisation must employ a Supervisor who meets the Supervisor Standard in the Mental Health Category of Law as set out in the 2010 Standard Civil Contract. Evidence of this must be provided 8 weeks prior to 14 October 2010.
By 14 October 2010 the Applicant Organisation must employ at least one full time equivalent (FTE) Supervisor (who meets the Supervisor Standard in the Mental Health Category of Law and actively supervises) for every six employed FTE Caseworkers. Evidence of this must be provided 8 weeks prior to 14 October 2010.
In each Procurement Area that the Applicant Organisation is tendering to deliver services, it must tender for and commence (in each contract year) at least 30 Matter Starts in the Mental Health Category of Law.

## ANNEX A: ESSENTIAL CRITERIA

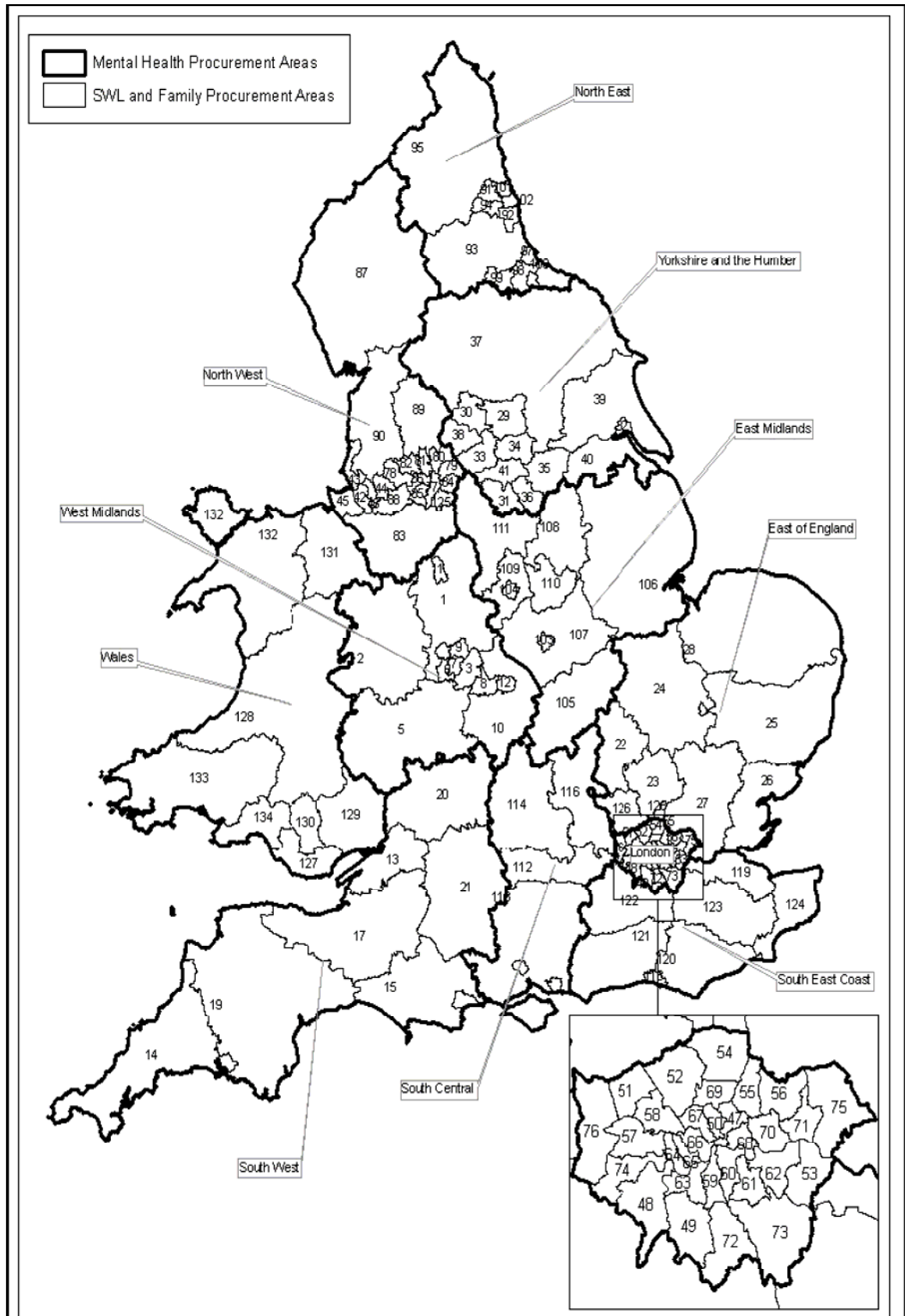
<b>High Security Hospitals</b>
The Applicant Organisation must have submitted a response to the Invitation to Tender to deliver publicly funded Mental Health Services in at least one Strategic Health Authority Procurement Area.
By 14 October 2010, at each of the High Security Hospitals the Applicant Organisation is tendering to deliver Mental Health Services at, it must be able and willing to provide Mental Health Services at all levels (Legal Help to Legal Representation) through the employment of an Authorised Litigator.
By 14 October 2010 the Applicant Organisation must employ at least one full time equivalent (FTE) Supervisor (who meets the Supervisor Standard in the Mental Health Category of Law and actively supervises) for every six employed FTE Caseworkers. Evidence of this must be provided 8 weeks prior to 14 October 2010.
By 14 October 2010, in relation to each of the High Security Hospitals at which it is tendering to deliver work, the Applicant Organisation must employ at least one caseworker with experience of advising in Restricted Cases.
By 14 October 2010, all the Applicant Organisation's advocates before Mental Health Tribunals (relating to Clients in High Security Hospitals) must be members of the Law Society's Mental Health Review Tribunal Accreditation Scheme.
At each High Security Hospital that it is tendering to deliver services at, the Applicant Organisation must tender for and commence (in each contract year) at least 30 Matter Starts in the Mental Health Category of Law.

## ANNEX B: HIGH SECURITY HOSPITAL SELECTION CRITERIA AND SCORING

Selection Criteria	Scoring system
<p>Preference will be given to Applicant Organisations that, since 10 February 2009, have undertaken cases under Part III of the Mental Health Act 1983 for a greater number of clients detained in hospital.</p>	<p>Marked out of 8</p> <p>Points will be awarded as follows:</p> <ul style="list-style-type: none"> <li>- 200 or more clients (8 points)</li> <li>- 150 –199 clients (6 points)</li> <li>- 100 – 149 clients (4 points)</li> <li>- 50 – 99 clients (2 points)</li> <li>- 49 or fewer clients (0 points)</li> </ul> <p>NB. Applicants may select an 'Exceptional Circumstances' option for use where Applicants consider that none of the other options provided apply to their Applicant Organisation. Applicants to whom this is relevant should set out their Exceptional Circumstances and how they meet the relevant criterion. Applicants setting out Exceptional Circumstances will be scored according to how well they meet our criteria and may be awarded scores from 0 – 8.</p>
<p>Preference will be given to Applicant Organisations who currently employ a higher proportion of Mental Health caseworkers who are members of the Law Society's Mental Health Review Tribunal Accreditation Scheme ('Scheme Members').</p>	<p>Marked out of 5</p> <p>Points will be awarded as follows:</p> <ul style="list-style-type: none"> <li>- 80 – 100% of caseworkers are Scheme Members (5 points)</li> <li>- 60 – 79% of caseworkers are Scheme Members (4 points)</li> <li>- 40 – 59% of caseworkers are Scheme Members (2 points)</li> <li>- 20 – 39% of caseworkers are Scheme Members (1 point)</li> <li>- 19% or less (0 points)</li> </ul> <p>NB. Applicants may select an 'Exceptional Circumstances' option for use where Applicants</p>

	<p>consider that none of the other options provided apply to their Applicant Organisation. Applicants to whom this is relevant should set out their Exceptional Circumstances and how they meet the relevant criterion. Applicants setting out Exceptional Circumstances will be scored according to how well they meet our criteria and may be awarded scores from 0 – 5.</p>
<p>Preference will be given to those Applicant Organisations that can provide us with a higher level of confidence of delivery through having a lower number of Mental Health caseworkers to recruit to deliver the Mental Health Services across all the High Security Hospitals that the Applicant Organisation has tendered for.</p>	<p>Marked out of 5</p> <p>Points will be awarded to as follows:</p> <ul style="list-style-type: none"> <li>- No caseworkers to recruit (5 points)</li> <li>- 1 caseworker to recruit (3 points)</li> <li>- 2 – 4 caseworkers to recruit (2 points)</li> <li>- 5 or more caseworkers to recruit (0 points)</li> </ul> <p>NB. Applicants may select an 'Exceptional Circumstances' option for use where Applicants consider that none of the other options provided apply to their Applicant Organisation. Applicants to whom this is relevant should set out their Exceptional Circumstances and how they meet the relevant criterion. Applicants setting out Exceptional Circumstances will be scored according to how well they meet our criteria and may be awarded scores from 0 – 5.</p>

**ANNEX C: Mental Health Procurement Area Map**



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 GIS Team, Strategic Development. June 2009

## ANNEX D: Comparison of Mental Health Procurement Areas with Social Welfare Law Procurement Areas

### Strategic Health Authority Procurement Areas

Mental Health Procurement Area	Component Social Welfare Law Procurement Areas
<b>East Midlands</b>	City of Derby, City of Leicester, Greater Nottingham, Leicestershire & Rutland, Lincolnshire, North Derbyshire, North Nottinghamshire, Northamptonshire, South Derbyshire
<b>East England</b>	Bedfordshire, Cambridgeshire, East Essex, Norfolk, North Hertfordshire, South Hertfordshire, Suffolk, West Essex
<b>London</b>	Barking and Dagenham, Barnet, Bexley, Brent, Bromley, Camden, City of Westminster, Croydon, Ealing, Enfield, Greenwich, Hackney & City of London, Hammersmith and Fulham, Haringey, Harrow, Havering, Hillingdon, Hounslow, Islington, Kensington and Chelsea, Kingston upon Thames & Richmond upon Thames, Lambeth, Lewisham, Merton & Sutton, Newham, Redbridge, Southwark, Tower Hamlets, Waltham Forest, Wandsworth
<b>North East</b>	Darlington, Durham, Gateshead, Hartlepool, Middlesbrough, Newcastle upon Tyne, North Tyneside, Northumberland, Redcar and Cleveland, South Tyneside, Stockton-on-Tees, Sunderland
<b>North West</b>	Bolton, Bury, Cheshire, Cumbria, East Lancashire, Knowsley, Liverpool, Manchester, Oldham, Rochdale, Salford, Sefton, St. Helens, Stockport, Tameside, Trafford, Warrington & Halton, West Lancashire, Wigan, Wirral
<b>South Central</b>	Berkshire, Buckinghamshire, City of Southampton, Hampshire, Oxfordshire, Portsmouth & Isle of Wight
<b>South East Coast</b>	City of Brighton and Hove, East Sussex, Mid and South West Kent, Surrey, Thames Gateway, The Kent Coast, West Sussex
<b>South West</b>	Bournemouth & Poole, City of Bristol, South Gloucestershire and North Somerset, City of Plymouth, Cornwall, Devon, Dorset, Gloucestershire, Somerset, Wiltshire
<b>Wales</b>	Bridgend, Cardiff and the Vale, Central Wales, Neath Port Talbot and Swansea, North East Wales, North West Wales, Rhondda Cynon Taff & Merthyr Tydfil, South, East Wales, South West Wales
<b>West Midlands</b>	Birmingham, City of Stoke-on-Trent, City of Wolverhampton, Coventry, Dudley, Herefordshire & Worcestershire, Sandwell, Shropshire, Solihull, Staffordshire, Walsall, Warwickshire
<b>Yorkshire and the Humber</b>	Barnsley, Bradford, Calderdale, City of Kingston upon Hull, Doncaster, East Riding of, Yorkshire, Kirklees, Leeds, North East Lincolnshire & North Lincolnshire, North Yorkshire, Rotherham, Sheffield, Wakefield

### High Security Hospitals

Ashworth Hospital
Broadmoor Hospital
Rampton Hospital

## Annex E: Guidance if unable to open the Tender Information Form due to macros

Some Applicant Organisations may have difficulty in opening the Tender Information Forms (TIF) 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 should follow the steps under Option 1 below to try to rectify the technical problem.

#### 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 Form and choose to enable macros	6) Open the Tender Information 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).

If having followed the steps set out in Option 1 above, you are still experiencing difficulty in accessing the form, you should undertake Option 2 below.

#### Option 2)

For each ITT you are submitting a tender for, Applicant Organisations can send a message to the relevant 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 31 March 2010.