

INVITATIONS TO TENDER TO DELIVER PUBLICLY  
FUNDED IMMIGRATION SERVICES IN  
THE KENT COAST AND CITY OF PLYMOUTH

**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 face-to-face advice services (and where appropriate representation) in the Immigration Category of Law (Immigration and Asylum cases) for eligible clients in The Kent Coast and City of Plymouth from 1 June 2011. This is a re-tender for the services in these Access Points that we originally invited tenders for in November 2009. See Section 6 for further information.

### **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.

### **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. Any Applicant Organisations interested in undertaking Immigration Services in England and Wales may apply.

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

Applicant Organisations are tendering for an allocation of advice cases (known as 'Matter Starts' or 'New Matter Starts') in the Immigration Category of Law (and a licence to undertake representation cases) in the specific geographic areas of The Kent Coast or City of Plymouth (see Sections 6 and 7).

### **Where will services be delivered?**

Services must be delivered in The Kent Coast or City Of Plymouth. The Kent Coast is an Access Point within the Procurement Area of London & South East England. City of Plymouth is an Access Point with the Procurement Area of South West England (see Section 7).

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

There are two Invitations To Tender (ITTs) for Immigration Services: one covering The Kent Coast and one covering the City of Plymouth. Both ITTs 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 8).

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

A completed tender consists of a response to the PQQ **and** a response to the ITT (including the Mandatory Form) (see section 8).

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

The ITT for the Immigration Services outlined above opens on 18 February 2011 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 18 March 2011. Tenders received after this deadline will not be considered (see Section 2 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 9.

**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 Immigration Services under the terms of the 2010 Standard Civil Contract (2 year 5 month contract to commence on 1 June 2011 and extendable at our option by up to a further 2 years).

If a successful Applicant Organisation already holds a Standard Civil Contract, it will be issued with an amended contract to include a schedule that covers the Immigration Services awarded as part of this tender exercise.

## **Section 2: About this IFA**

### **Services covered by this Information IFA**

- 2.1. This IFA covers information on the two ITTs for the provision of Immigration Services to eligible clients from Providers' Offices in the areas of The Kent Coast and City of Plymouth.

### **Structure**

- 2.2. This IFA is set out into 15 sections for your ease of reference:

Section 1: Overview of this Information For Applicants

Section 2: About this IFA

Section 3: Documents related to this IFA

Section 4: About the Legal Services Commission and legal aid

Section 5: Quality Standards for the delivery of services

Section 6: About Immigration Services

Section 7: About the volume and location of services we wish to procure

Section 8: How to submit a tender (responding to the PQQ and ITT(s))

Section 9: How will tenders be assessed

Section 10: Terms and Conditions of Tender

Section 11: Definitions

- 2.3. In addition there are four supporting Annexes:

Annex A: Essential Criteria

Annex B: Selection Criteria and scoring

Annex C: Map of Immigration Procurement Areas and Access Points

Annex D: Constituent Access Points within the South West Procurement Area

Annex E: Breakdown of Procurement Areas and Access Points by Local Authority Area

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

- 2.4. Section 11 explains all the definitions of phrases capitalised throughout the Tender Documents. Section 10 contains the Terms and Conditions of Tender governing this tender process; Applicant Organisations should familiarise themselves with these terms.

### **Communications about this IFA, PQQ and ITT**

- 2.5. Communications about this IFA, PQQ and ITT will be sent through the eTendering system and if applicable posted on our website. You must therefore ensure that any staff members dealing with the submission of your tender continue to monitor any email addresses, which you have provided to us as part of the registering onto the eTendering system.

### **Asking questions**

- 2.6. 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, PQQ or ITT; and
- Questions about how to technically use the eTendering system

### Questions about this IFA or the ITTs

- 2.7. If you have any questions about the content of this IFA, the PQQ or ITT you may submit them up until **12 noon on 4 March 2011** (note this is referred to as the 'End date for clarification messages') on the eTendering system.
- 2.8. All questions must be submitted using the online secure messaging tool within the eTendering System (see Section 8 for more detail about eTendering).
- 2.9. 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 Frequently Asked Questions (FAQ) document.
- 2.10. A final FAQ document will be published on 11 March 2011.

### Questions about how to use the eTendering system

- 2.11. 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.
- 2.12. Questions may 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).
- 2.13. 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

- 2.14. 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 Immigration Services are opened and available via the LSC's eTender portal	<b>18 February 2011</b>
Final date to submit questions about this IFA and the ITTs	<b>12 noon on 4 March 2011</b>
Final 'Frequently Asked Questions' to be published	<b>11 March 2011</b>
Deadline for submission of tenders	<b>12 noon on 18 March 2011</b>
Applicant Organisations notified if unsuccessful following assessment of the PQQ and Essential Criteria	<b>4 April 2011</b>
All remaining Applicant Organisations notified of outcome of tender process	<b>28 April 2011</b>

2010 Standard Civil Contract including Schedules issued to successful Applicant Organisations	<b>May 2011</b>
Contract start date	<b>1 June 2011</b>

### Section 3: Documents related to this IFA

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

NAME	Description	Location
<b>Information for Applicants (IFA)</b>	This document sets out the information, instructions, rules, conditions of contract award and Terms and Conditions of Tender relating to the ITT	LSC Website pathway: CLS > Tenders>Civil Contracts for 2010> Immigration and Asylum
<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>  (Please note that the applicant Information form and QM1 Form can be found in the 'Buyer Attachments' link once in the PQQ)
<b>Invitation to Tender (ITT)</b>	Includes: (1) Essential Criteria (2) Selection Criteria (3) Tender Information Form ( <b>Mandatory Form</b> ) (4) Supervisor Self Declaration Form	ITT pages on the eTendering portal: <a href="http://www.legalservices.bravosolution.co.uk">www.legalservices.bravosolution.co.uk</a>  (Please note that the Tender Information Form and Supervisor Self Declaration Forms can be found in the 'Buyer Attachments' link once in the relevant ITT)

**\* If you have previously submitted and passed a PQQ for an LSC 2010 Standard Civil Contract you do not need to submit a new PQQ for this tender. However, you must confirm in the Technical Questionnaire that you have previously submitted and passed a PQQ.**

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

Name	Description	Location
2010 Standard Civil Contract	All Contract documentation including: Contract for Signature Standard Terms Schedule	LSC website pathway CLS > Civil Contracts > 2010 Standard Civil Contract

	Specification (including Payment Annex)	
Tender FAQ document	Questions and answers of wider interest to Applicant Organisations	LSC website pathway: CLS > Tenders > Civil Contracts for 2010>Immigration and Asylum
eTendering guidance	Guidance on how to use the eTendering system including:  (1) eTendering online training  (2) eTendering Supplier Guide	“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.

## **Section 4: About the Legal Services Commission and legal aid**

### **About the LSC**

- 4.1 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.
- 4.2 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**

- 4.3 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.
- 4.4 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.
- 4.5 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)**

- 4.6 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.
- 4.7 Part of this is done through Community Legal Advice, which includes telephone and Internet based services. We jointly fund legal services with local authorities know as Community Legal Advice Centres and Networks.
- 4.8 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**

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

## Quality Assessment

- 4.10 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.
- 4.11 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

- 4.12 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> What cases do we fund?).
- 4.13 The Funding Codes 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

- 4.14 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 Chamber (including appeals).
- 4.15 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).
- 4.16 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**

- 4.17 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.
- 4.18 You are entitled to do Licensed Work out of any Office for which you are granted a schedule. Section 2 of the Civil Specification explains that some Licensed Work (e.g. Family) is 'exclusive' meaning that you will need to have Schedule Authorisation in that Category of Law for the particular Office. Some other Categories (e.g. Community Care) are not exclusive categories meaning that all you need is Schedule Authorisation in any Category of Law (for that Office) in order to undertake Licensed Work in the non-exclusive Category.
- 4.19 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**

- 4.20 New civil contracts for the delivery of face-to-face civil legal aid advice, including Immigration, came into effect on 14 November 2010. The civil contracts let in respect of this tender exercise will run from 1 June 2011 (the contract start date) and have a term of 2 years 5 months, subject to rights of early termination and our right to extend for up to 2 years.
- 4.21 Whilst this IFA may refer to awarding of a contract in separate categories, the successful Applicant Organisation will only have a single 2010 Standard Civil Contract. This single contract will include all the Immigration Services (and other Categories if applicable) that the Applicant Organisation can deliver from 1 June 2011.
- 4.22 All Immigration Services (including staff, premises etc.) must commence on 1 June 2011 and an Applicant Organisation must be able to confirm it is able to deliver these services by 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)
- 4.23 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**

- 4.24 As part of this tender process Applicant Organisations must complete 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.
- 4.25 If an applicant organisation has previously submitted and passed a PQQ for an LSC 2010 Standard Civil Contract they do not need to submit a new PQQ for this tender. However, Applicant Organisations in this position must confirm in the Technical Questionnaire that they have previously submitted and passed a PQQ.

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

- 4.26 We will only contract with a single legal entity for the purposes of providing the Immigration Services covered by this IFA.
- 4.27 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 Client's retainer will always be with the single entity.
- 4.28 Where Applicant Organisations are tendering as a new single legal entity that will be in place before 1 June 2011, it must complete a single PQQ and complete the ITT as that new legal entity.
- 4.29 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).
- 4.30 We will not accept consortia bids for the provision of the Immigration Services covered by this IFA.

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

- 4.31 If you are an Applicant Organisation with limited liability (unless you are a registered charity) you must as part of the ITT commit to providing an indemnity on the relevant form specified by us following submission of a tender.
- 4.32 A copy of the form is available on our website at [www.legalservices.gov.uk](http://www.legalservices.gov.uk) (CLS > Civil Contracts > 2010 Standard Civil Contract).
- 4.33 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.

4.34 In summary, by signing the form the ultimate owners etc of the organisation indemnify the LSC in respect of any losses, costs, expenses, damages or liabilities suffered or incurred by the LSC as a result of the Provider (or any receiver, administrator or similar person appointed for the Provider) failing to comply with its obligations under the Contract(s).

## **Section 5: Quality Standards for the delivery of services**

- 5.1 It will be a requirement of the Standard Civil Contract that Providers hold a recognised quality standard – either Lexcel or the Specialist Quality Mark (SQM).
- 5.2 New Providers (i.e. those that do not currently hold the Unified Contract (family) or the Standard (Civil or Crime) Contract) will be subject to a pre-condition of contract award that they either:
- hold Lexcel; or
  - confirm in the PQQ that they wish to apply for the SQM in accordance with the process set out below:
    - must pass the desk top audit before the contract start date 1 June 2011; and
    - fully hold the SQM by 1 December 2011.
- 5.3 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 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).
- 5.4 Supervisor Standards now form part of the Contract, and as such, supervision requirements will be covered by the ITT – please see Section 6 for further information.

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

- 5.5 The process for applying for the SQM is made up of three parts:
- i. SQM related questions in the PQQ;
  - ii. Completion and submission of a QM1 Form; and
  - iii. Submission of an Office Manual
- 5.6 The application process for the SQM is dealt with separately to the tender process, as it is a condition of contract award and not part of the PQQ or ITT response.
- 5.7 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 desk top audit is to assess the Office Manual to ensure it addresses these requirements.
- 5.8 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 we will not reject the PQQ but will make a further request for these documents from the Applicant Organisation. The Applicant Organisation must provide these documents by the deadline set out in the

request or its application for the SQM will be rejected and paragraph 5.12 below will apply.

- 5.9 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 for successful applicants by December 2011.
- 5.10 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.
- 5.11 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.
- 5.12 Failure to pass the desktop audit or any subsequent SQM audits will mean the Applicant Organisation has failed to meet a condition of contract award which will entitle 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.
- 5.13 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.
- 5.14 Applicant Organisations must therefore submit the required information to apply for the SQM with their PQQ response.

### **Lexcel**

- 5.15 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 6: About Immigration Services**

### **Immigration Services**

- 6.1. This section describes the category specific requirements that apply to the Immigration Services we wish to procure. The rules governing how Immigration Services should be delivered are set out in the Standard Civil Contract Specification and in particular at Section 8 – Immigration Category Specific Section.
- 6.2. Below are key terms of the contract we will ask Applicant Organisations to confirm they can meet in their response to an ITT. However, these are not all the obligations you will be required to meet during the terms of the contract and you should read the contract to understand the full extent of your obligations should you be awarded a contract.
- 6.3. The Immigration Category of Law is defined by the Funding Code to cover both Asylum and Immigration Non-Asylum cases (see [www.legalservices.gov.uk/CLS> What cases do we fund?](http://www.legalservices.gov.uk/CLS/What%20cases%20do%20we%20fund%3F) for further information).
- 6.4. Further background information on our policy behind the Immigration Services that we are commissioning is set out in *Civil Bid Rounds for 2010 Contracts: A Consultation Response* available at: <https://consult.legalservices.gov.uk/inovem/consult.ti/2010Contracts/listdocuments>.

### **Payment**

- 6.5. In addition to the general rules regarding remuneration for work, (Sections 3 and 6 of the Civil Specification) Part D of Section 8 sets out the rules, which are applicable to the immigration Category of Law only.
- 6.6. The Payment Annex to the Civil Specification sets out the actual rates payable, which depend on a number of factors including whether the matter is related to asylum or immigration work, the stage in the case or the type of activity being carried out.

### *Controlled Work*

- 6.7. We will pay you for Immigration Controlled Work properly carried out in accordance with the contract under one of the following payment methods:
  - (a) Standard Fees
  - (b) Hourly rates
- 6.8. In summary, Standard Fees vary according to the stage of the case and are inclusive of profit costs, travel and waiting time. Additional fees are payable for disbursements and advocacy fees.
- 6.9. For example, there is a Standard Fee for providing Legal Help to a client in an Asylum matter. If the same matter requires the client to be further represented at a substantive hearing (under Controlled Legal Representation) a separate Standard Fee will be paid for this work.

- 6.10. A matter may escape the Standard Fee scheme and become payable solely by hourly rates if, following the conclusion of a case, it is determined under the rules of the contract to be an 'Exceptional Matter'.
- 6.11. Certain types of matters or work, for example advice to an unaccompanied asylum seeking child or Bail applications, will be paid at hourly rates.

#### *Licensed Work*

- 6.12. 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.
- 6.13. You may (3 months after a certificate is granted) apply to us twice in any 12-month period for a payment on account for disbursements or profit cost (provided that the cumulative payments on account for profit costs do not exceed 75% of the amount you incurred, calculated at the date of each application for the payment on account).
- 6.14. 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.
- 6.15. All Licensed Work claims submitted are subject to assessment by either the court or the LSC.

#### **Start Date**

- 6.16. Applicants must be able to commence delivering Immigration Services from the contract start date of 1 June 2011. Where applicants have committed to put the necessary arrangements in place (i.e. to set up an Office or to recruit a Supervisor or Caseworker against a vacant post), then we will seek verification when we notify them of the outcome of the tender in April 2011 to ensure that the services tendered for is capable of being delivered from the contract start date.

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

- 6.17. 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 Immigration Services must demonstrate that it is able to meet.
- 6.18. The Essential Criteria cover the ability (from 1 June 2011) to:
- Deliver Legal Help and CLR in both asylum and immigration non-asylum cases
  - Commence a minimum number of Matter Starts per contract year:
    - 35 in Asylum and 15 in Non-Asylum (as the first schedule period will be for a 6 month period only a pro rata minimum of 18 Asylum and 8 Non-Asylum Matter Starts will apply to 30 November 2011)
  - Provide specific presence requirements in the geographic area for clients to access services – see further detail below

- Ensure all Caseworkers delivering the Immigration Service are accredited under the Law Society's Immigration and Asylum Accreditation Scheme (IAAS)
- Employ a Supervisor who meets the Supervisor Standard in Immigration;
- Maintain a full time equivalent (FTE) Supervisor to FTE Caseworker ratio of no more than 1 to 6
- Maintain a minimum ratio of one Level 2 (or Level 3) accredited Caseworker for every two Level 1 accredited Caseworkers employed at each Office where Immigration Services are being delivered

6.19. Where the criteria refer to 'employ' or 'employed' it means that the Applicant Organisation must hold an employment contract with that staff member. Those employed by the Applicant Organisation should be accessible to clients as and when required.

6.20. Applicant Organisations must also confirm that they have not received a confirmed peer review rating of 4 or 5 in the Immigration Category of Law (i.e. at the conclusion of the process, following appeal and any follow-up audit).

#### *Presence Requirements*

6.21. Providers will be able to deliver these Immigration Services through either a Permanent or a Part-time Presence, the definitions of which are set out in Section 2 of the Civil Contract Specification.

6.22. Full details of how the presence requirements apply are detailed within the individual ITT. However, all Applicants must at least have an Office that complies with the Permanent Presence requirements in the ITT in the applicable Procurement Area (see Section 7).

6.23. In addition, within the Access Point that the Applicant is tendering to provide Immigration Services from, they must have an Office that at least complies with the Part-time Presence requirements (see Section 7 for further detail on Access Points).

#### *Immigration and Asylum Accreditation Scheme (IAAS)*

6.24. The Immigration and Asylum Accreditation Scheme (IAAS) is a compulsory accreditation scheme run by the Law Society for all individuals performing publicly funded work. The IAAS is designed to assess that each Caseworker possesses both the knowledge of Immigration law and procedure and the practical skills required to provide good quality legal services in this Category of Law.

6.25. All Caseworkers must be accredited. In addition, the contract sets out what level of accreditation Caseworkers need to have in order to conduct certain types of Immigration Services. For example, only Level 2 Caseworkers can have conduct of a case requiring Controlled Legal Representation.

#### *Immigration Supervisor Standard*

6.26. All references to requirements for Supervisors mean an individual who meets the Supervisor Standard in the Immigration Category of Law. This means that in addition to the general requirements for Supervisors set out in Section 2 of the Civil Specification, an Immigration Supervisor must:

- (a) be a IAAS Level 2 Senior Caseworker or Level 3 Advanced Caseworker accredited; and
- (b) have achieved the IAAS Supervisor Level of accreditation.

*Ratio of Supervisors to Caseworkers of 1:6*

6.27. 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 Immigration Supervisor Standard and actively supervises.

*Ratio of Level 2 or Level 3 Caseworkers to Level 1 Caseworkers*

6.28. Each Office delivering Immigration Services must ensure that at least one FTE Level 2 (or Level 3) Caseworker is employed for every two Level 1 FTE Caseworkers employed. As with the Supervisor to Caseworker ratio, one FTE equates to working at least 35 hours per week. However, the calculation of this ratio should include Supervisors within the definition of a Caseworker.

**Preference for Immigration Services (Selection Criteria)**

6.29. In addition to the minimum requirements covered by the Essential Criteria, we have additional preferences (known in the ITTs 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 Matter Starts bid for exceeding the Matter Starts available (see Section 9).

6.30. 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 the detailed wording on each of the Selection Criteria please refer to Annex B.

6.31. Each ITT will set out the Selection Criteria that will be applied, these will include the ability (from 1 June 2011) to offer:

- The best access to an Authorised Litigator
- Drop-in Service Sessions
- The best access to an Immigration Supervisor
- A Level 3 accredited Caseworker
- A Permanent Presence

6.32. In addition, we will prefer Applicants that can demonstrate to us a higher level of confidence of their ability to deliver Immigration Services from 1 June 2011 based on:

- Experience of delivering legal services to clients
- Having a lower percentage of caseworkers (including Supervisors) to recruit to deliver the services tendered for

6.33. Experience of delivering legal services to clients relates to both publicly funded and non-publicly funded work.

6.34. An Applicant Organisation's response to the percentage of caseworkers to recruit to deliver the service should be answered in the context of the capacity test. For example, if an Applicant Organisation currently employs 1 FTE caseworker and has a vacancy for a further caseworker but has only tendered to deliver 75 Asylum and 75 Immigration Matter Starts (150 Matter Starts

overall) then the proportion of caseworkers to recruit should be entered as 'less than 25%' because the capacity cap of 150 Matter Starts per FTE (see 9.9) is met with the caseworker in post and as such, the appointment of the additional vacant caseworker is not crucial to delivery of the service.

## **Section 7: About the volume and location of services we wish to procure**

### **Geographic locations of Matter Starts**

#### **Access Points**

- 7.1 A main Immigration tender exercise was run in November 2009 and new contracts for the majority of areas have been operational since 15 November 2010. However, there were two Access Points (City of Plymouth and The Kent Coast) in which we were unable to secure Immigration Services and are subsequently opening new Invitations to Tender for these services.
- 7.2 An Access Point is defined as a geographic area within England or Wales with the highest demand for Immigration Services. It is at this level that we wish to procure services and as such, in this tender process we have allocated Matter Starts to both the City of Plymouth and The Kent Coast Access Points. Applicants are therefore invited to apply for Matter Starts in these specific areas.
- 7.3 Access Points sit within wider Procurement Areas. Procurement Areas are broadly based on United Kingdom Border Agency regions. The City of Plymouth is within the South West Procurement Area and The Kent Coast is within the London and South East Procurement Area.
- 7.4 A map of the two Access Points is set out in Annex C along with a map of how these fit into the wider Procurement Area at Annex D. A breakdown of how these relate to Local Authority areas is also provided at Annex E.

#### **Matter Starts available**

- 7.5 We have assigned Matter starts to the Access Point as set out in Table 1:

**Table 1 Matter Starts by Access Point**

<b>Procurement Area</b>	<b>Access Points</b>	<b>Asylum Matter Starts offered</b>	<b>Immigration Non-asylum Matter Starts offered</b>
South East England	SEF - The Kent Coast	225	55
South West England	SWC - City of Plymouth	190	65

- 7.6 Applicants must confirm in their response to the ITT how many Matter Starts from the amount available it wishes to deliver for the remainder of the Contract year (to 30 November 2011). Applicants are reminded that they cannot tender for more than the Matter Starts available in the Access Point.

## **Section 8: How to submit a tender (responding to the PQQ and ITT(s))**

### **Introduction**

- 8.1 This section covers how Applicant Organisations must submit a compliant tender and how to use the eTendering system to do so.
- 8.2 If you are tendering to deliver Immigration Services in both Access Points you must submit a single response to the PQQ and a response to each of the ITTs. You will need to submit a response to the ITT for each Access Point you are interested in.
- 8.3 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 and 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**

- 8.4 The Tender Information Form is the only standalone 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 5.
- 8.5 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 before the contract start date. Consequently, we would encourage you to submit this information if possible at the time of tender.
- 8.6 Where any conditions of contract awards (including any evidence required by the Essential Criteria) are not met, this will entitle us to reject a tender, assess the tender as unsuccessful 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.

8.7 Applicant Organisations do not need to have employed all Caseworkers and Supervisors by the date they submit their response to the ITT(s) but must be able to provide evidence that they have recruited all staff when notified of the outcome of the tender in April, before the contract start date.

### **Bidding for Matter Starts**

8.8 To tender for Matter Starts:

- You must confirm in your response to the ITT the number of Matter Starts that you are tendering to deliver from the Access Point to which the ITT relates
- For each Access Point you must tender for the minimum Matter Starts stated in the Essential Criteria of each ITT (see 6.18)
- You cannot tender for more than the maximum Matter Starts available in an Access Point. If you do, we will reduce your tender to the maximum Matter Starts available in that Access Point and allocate work based on this figure
- You cannot tender for more than the maximum capacity of Matter Starts. Capacity is set at a maximum of 150 Matter Starts per full time equivalent staff member delivering the service tendered for (full time equivalent equates to at least 35 hours per week)

8.9 Further detail on the capacity test and how we will allocate Matter Starts based on bids submitted is set out in Section 9.

### **The eTendering system**

8.10 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.

8.11 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**

8.12 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.

8.13 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 8.18.

### **Steps to submitting a tender**

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

8.15 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 Selection Criteria).

8.16 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.
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 the following:

- Tender Information Form

You must complete a Tender Information Form, giving details of the Supervisors and Caseworkers that will be delivering the work tendered for.

- Essential Criteria

You must prepare a single organisational response per ITT and you must warrant that the services that you are tendering to deliver from meet the Essential Criteria. You will also need to provide information linked to the Essential Criteria including the volume of Matter Starts that you are tendering for and address details of the Office from which you will be delivering Immigration Services.

- Selection Criteria

For each ITT you are responding to, you must complete your response to the Selection Criteria confirming how, within that Access Point, your organisation meets each of the Selection Criteria.

- Indemnities

You must commit to providing an indemnity if you are an Applicant Organisation with limited liability (unless you are a registered charity). Some Applicant Organisations that already hold a Standard Contract with the LSC may have already submitted the relevant indemnity form

and there will be a separate question that will enable you to indicate whether this is the case.

- 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.

- 8.17 Once you have completed your response you must ensure you submit it.
- 8.18 You must as part of your response to these ITTs submit a response to the PQQ on the eTendering system.
- 8.19 You may though have already completed and submitted a response to the PQQ as part of responding to another LSC invitation to tender for a 2010 Standard Civil or Crime Contract.
- 8.20 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 submitted 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.
- 8.21 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.
- 8.22 In relation to this tender process, at **12 noon on 18 March 2011**, 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)**

- 8.23 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.
- 8.24 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)

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

8.26 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 ground for failing the PQQ.

8.27 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.

8.28 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.

8.29 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.

8.30 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.

8.31 The PQQ also asks for information about the 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.

8.32 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)**

8.33 As previously outlined, there will be 2 ITTs - one covering Immigration Services in City of Plymouth and the other covering Immigration Services in The Kent Coast.

8.34 Applicant Organisations can access the ITTs by clicking on the 'ITTs open to all suppliers' link. This will bring up a list of the two ITTs that relate to this Immigration tender process.

8.35 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?**

8.36 All ITTs comprise of the following sections:

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

8.37 There is a separate Tender Information Form attached to each ITT. This requests detail of the Supervisors and Caseworkers that will deliver the Immigration Services tendered for including the hours they will work on the Immigration Services tendered for and their level of qualification.

8.38 Where Applicant Organisations have posts vacant, they should 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 should select the 'Supervisor' option from the drop down menu.

8.39 Applicant Organisations must complete the Tender Information Form, save it onto their own systems and upload with their response to the ITT. There is a facility in the right hand side of the screen (Buyer Attachments) to download the Tender Information Form. The information provided on this form will form part of an Applicant Organisation's tender.

8.40 Additionally, providers will be asked some tender information within the ITT form on the eTendering system. This covers whether an Applicant Organisation currently holds an LSC account number for the Office from which it is tendering to deliver service, the volume of immigration and asylum matter starts that the Applicant Organisation is tendering to deliver from the Access Point in the first schedule period (1 June to 30 November 2011) and whether the Applicant Organisation would like to undertake tolerance work from the Office in question.

8.41 Applicant Organisations that are awarded an allocation of Matter Starts may elect to apply for an allocation of tolerance Matter Starts to enable them to conduct a small amount of work outside their allocation for the Immigration Category of Law. This will be limited to 5% of the total contract award.

## **Essential Criteria**

- 8.42 The next section of the ITT sets out the Essential Criteria and related questions.
- 8.43 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 the services tendered for (see Annex A for a list of Essential Criteria we will apply)
- 8.44 All the questions in this section require an answer of Yes or No. One Essential Criterion requires an Applicant Organisation to employ an Immigration Supervisor. There is a facility in the right hand side of the screen (Buyer Attachments) to download the relevant Supervisor Self Declaration Form.
- 8.45 This form should be downloaded and completed with details of the Immigration Supervisor who is currently in post to deliver the services tendered for. It should then be uploaded with the response. If the Applicant Organisation has more than one Supervisor that will be supervising work from the Office in the Access Point, it should submit an additional form with the details of any additional Supervisors through the appropriate message board within the eTendering system.
- 8.46 If an Applicant Organisation does not currently have an Immigration Supervisor in post, then it will not need to upload the Supervisor Self Declaration Form with its tender. However, it must provide us with a Supervisor Self Declaration Form once this individual is recruited and in any event, if the Applicant Organisation is successful, following notification of this in April.
- 8.47 Supervisor Declaration Forms are not Mandatory Forms, however it will be a condition of contract that we receive these completed when requested prior to the contract start date. Therefore, where possible Applicant Organisations are encouraged to submit completed forms with their tender.
- 8.48 Where any conditions of contract awards (including any evidence required by the Essential Criteria) are not met, this will entitle us to reject a tender, assess the tender as unsuccessful 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.

## **Selection Criteria**

- 8.49 After completing questions regarding the Essential Criteria, Applicant Organisations 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 these ITTs.
- 8.50 Some Selection Criteria mainly refer to the experience of the Organisation as a whole and others are specific to the service that will be delivered from the Office in the Access Point.

8.51 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. 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.

8.52 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 Applicant Organisations are assessed on an equal basis, any additional information provided will not be considered.

### **What happens once a response is submitted?**

8.53 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.

8.54 Applicants can therefore amend and resubmit their responses to the ITTs up until the closing date for tenders to be submitted.

8.55 Responses will be automatically acknowledged when they are submitted 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 9: How will tenders be assessed?

### Opening Procedure

- 9.1 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

- 9.2 The PQQ consists of a series of yes/no questions that are designed to test compliance with our requirements.
- 9.3 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 its tender will be unsuccessful.
- 9.4 At **12 noon on 18 March 2011**, 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

- 9.5 The Essential Criteria reflect the minimum service requirements that each Provider delivering the Services tendered for must meet at each Office.
- 9.6 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 tenders assessed as unsuccessful.
- 9.7 We will undertake a verification exercise against all Applicant Organisations awarded Matter Starts prior to the start of the contract to ensure that information provided in tenders remains current.

### Capacity Test

- 9.8 Following assessment of the PQQ and Essential Criteria we will look at the Matter Starts applied for by all Applicant Organisations passing the PQQ and Essential Criteria stage.
- 9.9 The Capacity Test that apply to the Immigration Category of Law is as follows:

<b>Category of Law</b>	<b>Maximum number of Matter Start per full time equivalent (FTE) staff member delivering the Service</b>
Asylum and Immigration Non-Asylum	150 per FTE

- 9.10 Where Matter Starts tendered for exceed the maximum number of Matter Starts per FTE staff member delivering the Services, we will reduce the number of Matter Starts in line with the above maximum.

- 9.11 If an Applicant Organisation references the same staff member as an FTE across more than one tender, i.e. the Kent Coast and the City of Plymouth, and the capacity test is exceeded, we will reduce the number of Matter Starts allocated to the staff member evenly across the tenders in which the staff member is referred to.
- 9.12 Where an Applicant Organisation is bidding for both Asylum and Immigration Non-Asylum Matter Starts and is in excess of the capacity test we will reduce the bid proportionally between the two sub-categories.
- 9.13 As there is a limited number of Matter Starts available, we need to ensure that these are allocated to Applicant Organisations who have demonstrated to us confidence that they are able to deliver services from 1 June 2011 (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.
- 9.14 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 before the contract start date, the full allocation will be awarded. We will undertake a verification exercise against all Applicant Organisations awarded Matter Starts prior to 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.
- 9.15 Following the capacity test if the total volume of Matter Starts tendered for in the Access Point is less than the Matter Starts available in the Access Point we will award contracts to all those successful Applicant Organisations.
- 9.16 If, following the capacity test, the total volume of Matter Starts tendered for in the Access Point for a particular Category of Law is more than the Matter Starts available in the Access Point we will go on to assess the individual bid against the Selection Criteria.

### **Selection Criteria**

- 9.17 Where we are **not** able to cater for all Applicant Organisations' bids for Matter Starts, the Selection Criteria will be applied.
- 9.18 Set out in Annex B is an outline of the Selection Criteria and how it 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 tenders that demonstrate a better fit with our requirements.
- 9.19 We will total up the points awarded for each tender. Tenders will then be ranked against each other. The higher the number of total points awarded, the higher the ranking.

### **Awarding Immigration Matter Starts**

- 9.20 Once we have completed the ranking we will first award Matter Starts to the Applicant Organisation ranked the highest and continue down the rankings until all available Matter Starts in the Access Point have been allocated.

9.21 We recognise that Applicant Organisations will bid for Asylum and Immigration Non-Asylum Matter Starts in varying proportions. We will therefore reserve the right to allocate up to 10% more of the total Asylum Matters allocated to the Access Point.

9.22 Where we are unable to distinguish between tenders because they 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 Individual Bids against the available Matter Starts e.g.

Individual Bid	Matter Starts Bid for	Pro rata reduction (proportion overallocated based on Individual Bids)	Matter Starts awarded
A	50	60%	20
B	100		40
C	100		40

9.23 Where we allocate bids on a pro rata basis we will never allocate below the Minimum New Matter Start size (in this case, the pro rata equivalent for the 6 months that the initial contract schedule will run for).

### Appeals

9.24 A completed tender will consist of (1) a response to the PQQ **and** (2) a response to the ITT (including the Mandatory Form) submitted prior to the deadline of **12 noon on 18 March 2011**.

9.25 Where a tender is unsuccessful or rejected, the Applicant Organisation will be given written reasons as to why it was unsuccessful or rejected.

9.26 There will be no right of appeal against a decision to reject a tender if it is incomplete or if a tender is received after **12 noon on 18 March 2011** (or if information is received after any deadline set by a request for clarification or further information) or is not received by the LSC at all.

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

- a) Where the Applicant Organisation does not pass the PQQ;
- b) Where the Applicant Organisation does not meet the Essential Criteria;
- c) Where an Applicant Organisation's tender is unsuccessful because it ranks lower than other tenders and the Applicant Organisation is subsequently not awarded contract work.

And/or

- d) where the Applicant Organisation does not comply with paragraph 10.2 *and* a notice that the tender is unsuccessful stipulates a right of appeal.

### *Submitting appeals*

9.28 Appeals will only be accepted if made by an Applicant Organisation through the eTendering system and must be received prior to the applicable deadline set out in the rejection letter (usually 2 weeks from the date of notification). An appeal submitted after the applicable deadline, in any other form or by any other method will not be considered.

9.29 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.

9.30 There will be no further right to appeal.

## Section 10: Terms and Conditions of tender

- 10.1 The Applicant Organisation's participation in the tendering exercise for Immigration Services covered by the Standard Civil Contract is 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.
- 10.2 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.
- 10.3 A tender must be submitted by **12 noon on 18 March 2011** ("the deadline"). For the purposes of this deadline, it is understood that the time on the eTendering System shall be the definitive time.
- 10.4 Any reference to 'tender' includes any part of a tender.
- 10.5 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.
- 10.6 The Applicant Organisation acknowledges that the award of a Standard Civil Contract does not guarantee any minimum amount of work. Work under the Contract is dependent on a successful Applicant Organisation attracting clients, and is subject to amendment under the terms of the Contract.
- 10.7 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.
- 10.8 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 the ITT (including the Mandatory Tender Information Form).
- 10.9 The Applicant Organisation must not amend or alter any document comprising part of the tender after the deadline.
- 10.10 After the deadline any information or documents submitted in response to a request for clarification or further information (in accordance with paragraph 10.26) will also form part of the Applicant Organisation's tender.
- 10.11 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.
- 10.12 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.

- 10.13 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.
- 10.14 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.
- 10.15 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).
- 10.16 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.
- 10.17 If, because an Applicant Organisation has registered more than once on the LSC eTendering system or, for any other reason, more than one response to the PQQ or the 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.
- 10.18 The Applicant Organisation may amend and re-submit their response to the PQQ and/or the 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.
- 10.19 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.
- 10.20 A tender will be rejected if it is submitted after the deadline nor will the LSC consider (1) requests to submit the tender after the deadline or (2) requests for an extension of the time or date fixed for the submission of the tender.
- 10.21 A tender will be unsuccessful where, following assessment, the Applicant Organisation:
  - (i) does not pass the PQQ;
  - (ii) does not pass the Essential Criteria;and/or

- (iii) has its tender ranked lower than other tenders following assessment of the Selection Criteria, and it is subsequently not awarded contract work.
- 10.22 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 10.25, any notices of amendment etc will be published on the LSC website tender pages (CLS > Tenders > Civil Contracts for 2010 > Immigration and Asylum) and sent via the eTendering system to all Applicant Organisations that have expressed an interest in the ITT and/or PQQ.
- 10.23 A submitted tender from an Applicant Organisation, 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 10.22 above, may be rejected or unsuccessful.
- 10.24 Any communications about the Tender Documents will be given by notice published on the LSC website tender pages (CLS > Tenders > Civil Contracts for 2010 > Immigration) and sent by via the eTendering system to all Applicant Organisations that have expressed an interest in the ITT or PQQ.
- 10.25 After the deadline, notices (pursuant to paragraph 10.22) relating to the Immigration Civil Contract Tender will be published on the LSC tender pages of the website only.
- 10.26 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 reserves the right to validate any part of the Applicant Organisation's tender and information subsequently given to it.
- 10.27 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).
- 10.28 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.
- 10.29 The Applicant Organisation agrees to keep any tender valid and capable of acceptance by the LSC up to the 1 June 2011 (Contract start date).
- 10.30 The right of appeal for an unsuccessful Applicant Organisation is limited to that set out in Section 9.
- 10.31 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.

- 10.32 All intellectual property rights in the Tender Documents and any associated documents are and shall remain the LSC's property.
- 10.33 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.
- 10.34 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.
- 10.35 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.
- 10.36 If an Applicant Organisation changes its status or any material element of its tender including management or Key Personnel prior to the Contract start date, 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 request the new Applicant Organisation (post-change) to submit a fresh tender, reject a tender, 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.
- 10.37 The Applicant Organisation must not, and must ensure that its employees, partners, directors, Key Personnel and agents must not;
- i. canvass any officers, employees, agents or advisers of the LSC in connection with this tender process; or
  - ii. 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.
- 10.38 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.
- 10.39 Nothing in these Terms and Conditions prevents the Applicant Organisation from approaching or recruiting employees or agents (in accordance with the terms of the Contract) to undertake work covered by this tender process on behalf of the Applicant Organisation.
- 10.40 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 by the date requested 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***

- 10.41 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.
- 10.42 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.
- 10.43 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 considers 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.
- 10.44 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.
- 10.45 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.
- 10.46 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").
- 10.47 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.
- 10.48 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. 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 11 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;

References to 'tender' include any part of a tender including an Individual Bid;

*"Applicant Organisation" and "Applicant"* means a single legal entity tendering to deliver Immigration Services;

*"Authorised Litigator"* means a solicitor or other authorised litigator as defined in Section 119 of the Courts and Legal Services Act 1990. An authorised litigator, as defined by the Act, is "any person (including a solicitor) who has a right to conduct litigation granted by an authorised body." An authorised litigator's role is primarily to issue proceedings and apply for a funding certificate for Legal Representation, and then to conduct the litigation. Without an authorised litigator, a provider organisation will not be able to provide the full range of services up to full Legal Representation for their clients.

*"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;

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

*"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(s) after the deadline will mean a tender is rejected;

*“Immigration Category of Law,”* has the meaning defined by the Funding Code and covers both Asylum and Immigration Non-Asylum cases;

*“Immigration Services”* means face-to-face advice (and where appropriate Representation) to Clients at specialist level in the Immigration Category of Law (i.e. covering both Asylum and Immigration Non-asylum). 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 and 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 Immigration Services that Applicant Organisations can tender against. For this tender process there is an ITT 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 10 of this IFA.