

This notice in TED website: <http://ted.europa.eu/udl?uri=TED:NOTICE:423531-2016:TEXT:EN:HTML>

**United Kingdom-Liverpool: Legal services
2016/S 232-423531**

Contract notice

Services

Directive 2004/18/EC

Section I: Contracting authority

I.1) Name, addresses and contact point(s)

The Minister for the Cabinet Office acting through Crown Commercial Service
9th Floor, The Capital, Old Hall Street
L3 9PP Liverpool
United Kingdom
Telephone: +44 3450103503
E-mail: supplier@crowncommercial.gov.uk , enablement@crowncommercial.gov.uk

Internet address(es):

General address of the contracting authority: <http://www.gov.uk/ccs>
Address of the buyer profile: <https://gpsesourcing.cabinetoffice.gov.uk>

Further information can be obtained from: The above mentioned contact point(s)

Specifications and additional documents (including documents for competitive dialogue and a dynamic purchasing system) can be obtained from: The above mentioned contact point(s)

Tenders or requests to participate must be sent to: The above mentioned contact point(s)

I.2) Type of the contracting authority

Ministry or any other national or federal authority, including their regional or local sub-divisions

I.3) Main activity

General public services
Other: Public Procurement

I.4) Contract award on behalf of other contracting authorities

Section II: Object of the contract

II.1) Description

II.1.1) Title attributed to the contract by the contracting authority:

Rail Legal Services
RM3756.

II.1.2) Type of contract and location of works, place of delivery or of performance

Services
Service category No 21: Legal services
Main site or location of works, place of delivery or of performance: Primarily in the UK with some limited requirements overseas.
NUTS code UK

II.1.3) Information about a public contract, a framework agreement or a dynamic purchasing system (DPS)

The notice involves a public contract

II.1.4) **Information on framework agreement**

II.1.5) **Short description of the contract or purchase(s)**

Crown Commercial Service as the Authority is putting in place a Panel Agreement for Rail Legal Services ('the Panel') for Crown Bodies, the Principal Panel Customer being the Department for Transport and other permitted users identified at VI.3 (and any future successors to these organisations) in England, Wales, Scotland and Northern Ireland ('Panel Customers').

Panel Customers will then be able to enter into Legal Service Contracts with successful Suppliers for any required services.

This Panel Agreement will be for an initial Panel Period of three (3) years, with the option to extend for up to one (1) further period of twelve (12) consecutive months.

This procurement relates to the legal services which are listed in Schedule 3 of the Public Contracts Regulations 2015(PCR) 2015 as a specific service. This procurement is being conducted under the Light Tough Regime ('LTR') and will be conducted in accordance with regulations 74 to 76 PCR 2015.

The anticipated maximum number of Suppliers to be appointed to the Panel is eight (8), with four (4) Suppliers within Tier 1 and four (4) Suppliers within Tier 2.

Potential Providers will be able to elect that if their organisation is awarded a Tier 1 place on the Panel Agreement to decline the Tier 1 place and accept a Tier 2 Panel Agreement, full details are available in the Stage 1 Guidance and Eligibility Questionnaire (Attachment 2) which can be accessed at: <https://gpsesourcing.cabinetoffice.gov.uk> using the instructions detailed in III.2.1.

The procurement will be conducted in three (3) stages which will be run consecutively. Full details are available in the Invitation to Tender ('the Invitation'). The Invitation can be accessed at:

<https://gpsesourcing.cabinetoffice.gov.uk>
using the instructions detailed in III.2.1.

An overview of the stages are as follows:

Stage 1 — Eligibility (Eligibility Questionnaire):

Potential Providers will be required to complete an Eligibility Questionnaire.

Information submitted in the Stage 1 Eligibility Questionnaire will be evaluated to assess eligibility, capability to pursue a professional activity and economic and financial standing in accordance with the Invitation.

Following the evaluation of Potential Providers' Stage 1 Eligibility Questionnaire Tender Submissions, for the purposes of determining which Potential Providers will be invited to Stage 2, the Authority will rank all Potential Providers from the highest Stage 1 Eligibility Score downwards as detailed in the Invitation.

A maximum of 16 Potential Providers will be invited to participate in Stage 2 of this Procurement. Where there are less than 16 Potential Providers assessed as eligible having satisfied the Stage 1 requirements less than 16 will proceed to Stage 2 — Suitability.

Where there are more than 16 Potential Providers assessed as eligible, Potential Providers ranked 1st to 16th will be invited via the e-Sourcing Suite to participate in Stage 2 — Suitability.

Where there are 2 or more Potential Providers who have tied scores and are placed in 16th position, the Authority will apply a tie breaker to determine which Potential Provider will proceed to Stage 2. The other Potential Provider will then be ranked 17th.

Stage 2 — Suitability (Suitability Questionnaire and Stage 2 Pricing):

Potential Providers will be required to complete a Suitability Questionnaire which includes scored questions and a Stage 2 Pricing Matrix together forming the 'Stage 2 Tender Submission'.

The Authority will evaluate the Stage 2 Tender Submissions as set out in the Invitation.

The Stage 2 Quality Evaluation is weighted as 70 %. The Stage 2 Price Evaluation is weighted as 30 %.

Following the evaluation of Potential Providers' Stage 2 Tender Submission, for the purposes of determining which Potential Providers will be invited to Stage 3, the Authority will rank all Potential Providers from highest Stage 2 Final Score downwards. A maximum of 12 top scoring Potential Providers will be invited to participate in Stage 3 of this Procurement.

Where there are 2 or more Potential Providers who have tied scores and are placed in 12th position, the Authority will apply a tie breaker to determine which Potential Provider will proceed to Stage 2. The other Potential Provider will then be ranked 13th.

Stage 3 — Compatibility (Compatibility Meeting and Stage 3 Pricing)

Potential Providers will be required to submit a Stage 3 Presentation, a completed Stage 3 Pricing Matrix and a completed Panel Agreement Population Template.

Potential Providers will also participate in a Stage 3 Compatibility Meeting where they will present their Stage 3 Presentation. The Authority will evaluate the Stage 3 Presentation at the Compatibility Meeting in accordance with the Invitation

The Authority will assess responses to the Stage 3 Pricing Matrix in accordance with the Invitation.

The Stage 3 Quality Evaluation is weighted as 70 %.

The Stage 3 Price Evaluation is weighted as 30 %.

The Stage 3 Quality Evaluation (70 %) will comprise of:

— the Stage 2 Quality Score weighted 40 % and;

— the Stage 3 Compatibility Meeting Score (Quality Evaluation) weighted 30 %.

Following the evaluation of Stage 3, for the purposes of determining the final decision to award, all results will be ranked from the highest Stage 3 final score downwards.

The Authority will award Panel Agreements to Suppliers in accordance with the Invitation.

Although this Procurement is being run under the Light Touch Regime, the Authority has chosen to observe a Standstill Period. Following a Standstill Period of ten (10) calendar days and subject to there being no substantive challenge to the Intention to Award, a Panel Agreement will be formally awarded, subject to contract.

II.1.6) **Common procurement vocabulary (CPV)**

79100000, 79110000, 79111000, 79112000, 79130000, 79140000

II.1.7) **Information about Government Procurement Agreement (GPA)**

The contract is covered by the Government Procurement Agreement (GPA): yes

II.1.8) **Lots**

This contract is divided into lots: no

II.1.9) **Information about variants**

Variants will be accepted: no

II.2) **Quantity or scope of the contract**

II.2.1) **Total quantity or scope:**

This Panel will comprise of two (2) tiers:

Tier 1 work will involve advice on major, long term transactions e.g. rail franchise competitions and other highly complex projects where the Tier 1 Supplier will need to devote considerable resource to the project over a multiyear period of time or where the instructions relate to particularly complex issues e.g. advising on structural forms.

Tier 2 work will generally involve advice on less complex and resource intensive transactions e.g. instructions relating to less complex contractual changes.

Suppliers on the Panel will be providers of rail legal services, authorised and regulated by the SRA and/or appropriate regulatory bodies in other EU jurisdictions and will be able to provide all of the following Core Specialisms;

- Regulatory law
- Company, Commercial and Contract law
- Public procurement law

The Panel will also cover Non-Core Specialisms.

The Non-Core Specialisms may only be required by a Panel Customer in connection with a rail related matter.

Advice in respect of a Non-Core Specialism may be required by a Panel Customer: (1) on a stand alone basis in connection with a rail related matter or;

(2) as part of a wider rail related matter including drafting or advising on contractual provisions in circumstances where advice in respect of that Non-Core Specialism is required.

Suppliers are required to be able to provide at least eight (8) of the sixteen (16) Non-Core Specialisms.

The Non-Core Specialisms that the Panel Customers may require under this Panel are:

- 1) EU law
- 2) International law
- 3) Competition law
- 4) Dispute Resolution and litigation law
- 5) Employment law
- 6) Environmental law
- 7) Health and safety law
- 8) Information law including data protection law
- 9) Information technology law
- 10) Intellectual property law
- 11) Pensions law
- 12) Planning law
- 13) Real estate law
- 14) Restructuring/ Insolvency law
- 15) Tax law
- 16) Insurance law

The Authority welcomes and encourages Tender Submissions from economic operators collaborating as a Group of Economic Operators or Key Contracting elements of its obligations.

Full details are available in the Invitation. The Invitation can be accessed: <https://gpsourcing.cabinetoffice.gov.uk> using the instructions detailed in III.2.1.

Estimated value excluding VAT: 50 000 000 GBP

II.2.2) **Information about options**

Options: no

II.2.3) **Information about renewals**

II.3) **Duration of the contract or time limit for completion**

Duration in months: 48 (from the award of the contract)

Section III: Legal, economic, financial and technical information

III.1) **Conditions relating to the contract**

III.1.1) **Deposits and guarantees required:**

Participants will be advised if this is necessary during the procurement. Parent company and/or other guarantees of performance and financial liability may be required by The Authority if considered appropriate.

III.1.2) **Main financing conditions and payment arrangements and/or reference to the relevant provisions governing them:**

III.1.3) **Legal form to be taken by the group of economic operators to whom the contract is to be awarded:**
No legal form is required but if a contract is awarded to a Group of Economic Operators, the Authority may require the Group of Economic Operators to form a legal entity before entering into the Panel Agreement.

III.1.4) **Other particular conditions**
The performance of the contract is subject to particular conditions: no

III.2) **Conditions for participation**

III.2.1) **Personal situation of economic operators, including requirements relating to enrolment on professional or trade registers**

Information and formalities necessary for evaluating if the requirements are met: This Procurement will be managed electronically via the Authority's e-Sourcing Suite. To participate in this Procurement, participants must first be registered on the e-Sourcing Suite.

If you have not yet registered on the e-Sourcing Suite, please go online to: <https://gpsesourcing.cabinetoffice.gov.uk> you can then access the link 'Register for CCS eSourcing'. Please note that, to register, you must have a valid DUNS number (as provided by Dun and Bradstreet) for the organisation which you are registering, who will be entering into a contract if invited to do so.

Full instructions for registration and use of the system can be found at: <https://www.gov.uk/government/publications/esourcing-tool-guidance-for-Suppliers>.

Once you have registered on the e-Sourcing Suite, a registered user can express an interest for a specific procurement. This is done by emailing ExpressionOfInterest@crowncommercial.gov.uk.

Your email must clearly state: the name and reference for the procurement you wish to register for; the name of the Potential Provider; and the name and contact details for the registered individual sending the email.

The Authority will process the email and then enable the Potential Provider to access the procurement online via the e-Sourcing Suite. The registered user will receive a notification email to alert them once this has been done.

As a user of the e-Sourcing Suite you will have access to e-Sourcing Suite email messaging service which facilitates all messages sent to you and from you in relation to any specific RFX event.

Please note it is your responsibility to access these emails on a regular basis to ensure you have sight of all relevant information. For technical assistance on use of the e-Sourcing Suite please contact Crown Commercial Service Support Desk email: eEnablement@crowncommercial.gov.uk

A full copy of the procurement documentation for this Procurement will be available for unrestricted and full direct access, free of charge via the Crown Commercial Service website from the date of the publication of the contract notice:

<http://ccs-agreements.cabinetoffice.gov.uk/procurement-pipeline>

III.2.2) **Economic and financial ability**

Information and formalities necessary for evaluating if the requirements are met: The Authority shall use a credit reference agency as the 1st step in determining financial risk in relation to Potential Providers' Tender Submission. The Authority will request a financial risk score based on the information provided by Potential Providers in their response to the Stage 1 Eligibility Questionnaire.

In assessing the financial risk represented by Potential Providers, the Authority may take into account a copy of its audited accounts for the most recent 2 financial years and/or 1 or more of the following in respect of its organisation:

- a) a statement of the turnover, profit and loss account, current liabilities and assets, and cash flow for the most recent year of trading for this organisation; or
- b) a statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position; and/or
- c) an alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank or an alternative means of demonstrating financial status).

Potential Providers must possess the required level of Insurance cover detailed in the Invitation. The Invitation can be accessed at: <https://gpsesourcing.cabinetoffice.gov.uk> using the instructions detailed in III.2.1).

III.2.3) **Technical capacity**

Information and formalities necessary for evaluating if the requirements are met:

Potential Providers will be assessed on the basis of information provided in response to the Invitation. The Invitation can be accessed at: <https://gpsesourcing.cabinetoffice.gov.uk> using the instructions detailed in III.2.1.

III.2.4) **Information about reserved contracts**

III.3) **Conditions specific to services contracts**

III.3.1) **Information about a particular profession**

Execution of the service is reserved to a particular profession: no

III.3.2) **Staff responsible for the execution of the service**

Legal persons should indicate the names and professional qualifications of the staff responsible for the execution of the service: no

Section IV: Procedure

IV.1) **Type of procedure**

IV.1.1) **Type of procedure**

Open

IV.1.2) **Limitations on the number of operators who will be invited to tender or to participate**

IV.1.3) **Reduction of the number of operators during the negotiation or dialogue**

IV.2) **Award criteria**

IV.2.1) **Award criteria**

The most economically advantageous tender in terms of the criteria stated in the specifications, in the invitation to tender or to negotiate or in the descriptive document

IV.2.2) **Information about electronic auction**

An electronic auction will be used: no

IV.3) **Administrative information**

IV.3.1) **File reference number attributed by the contracting authority:**

RM3756

IV.3.2) **Previous publication(s) concerning the same contract**

Prior information notice

Notice number in the OJEU: [2016/S 097-173345](#) of 21.5.2016

IV.3.3) **Conditions for obtaining specifications and additional documents or descriptive document**

Payable documents: no

IV.3.4) **Time limit for receipt of tenders or requests to participate**

22.12.2016 - 15:00

IV.3.5) **Date of dispatch of invitations to tender or to participate to selected candidates**

IV.3.6) **Language(s) in which tenders or requests to participate may be drawn up**
English.

IV.3.7) **Minimum time frame during which the tenderer must maintain the tender**
in days: 240 (from the date stated for receipt of tender)

IV.3.8) **Conditions for opening of tenders**
Place:
Electronically, via web-based portal

Section VI: Complementary information

VI.1) **Information about recurrence**

This is a recurrent procurement: no

VI.2) **Information about European Union funds**

The contract is related to a project and/or programme financed by European Union funds: no

VI.3) **Additional information**

A full copy of the procurement documentation for this Procurement will be available for unrestricted and full direct access, free of charge via the Authority's website from the date of publication of the contract notice: <http://ccs-agreements.cabinetoffice.gov.uk/procurement-pipeline>

Please be advised that the Authority does not consider that the Transfer of Undertakings (Protection of Employment) Regulations 2006 ('TUPE') to be an issue in respect of this Procurement at Panel Agreement Award Stage as services are not provided at this level.

At the Legal Services Contract stage, the Authority takes the view that TUPE is unlikely to apply. It is the responsibility of Potential Providers to take their own advice and consider whether TUPE is likely to apply at the Legal Services Contract stage and to act accordingly.

Cyber Essentials is mandatory for Central Government Contracts which involve handling personal information and providing certain ICT products and services. The Government is taking steps to further reduce the levels of cyber security risk in its supply chain through the Cyber Essentials Plus scheme. The scheme defines a set of controls which, when properly implemented, will provide organisations with basic protection from the most prevalent forms of threat coming from the internet. There are two (2) levels of certification: Cyber Essentials and Cyber Essentials Plus.

To participate in this Procurement, Potential Providers must be able to demonstrate that they comply with the technical requirements prescribed by Cyber Essentials Plus for services under and in connection with this Procurement. Potential Providers may be awarded a place on the Panel Agreement but shall not enter into any Legal Services Contract with Panel Customers until they are able to demonstrate to the Authority that they meet the technical requirements prescribed by Cyber Essentials Plus for services under and in connection with this Procurement.

The Authority reserves the right for the Authority and/or Panel Customers for an electronic auction to be held during the Legal Services Contract Stage among the Parties to the Panel Agreement(s).

Electronic ordering and/or electronic invoicing and/or electronic payment may be used during the period of the Panel Agreement and throughout the lifespan of any Legal Services Contract.

Potential Providers should note that, in accordance with the UK Government's policies on transparency, the Authority intends to publish the procurement documentation and the text of any Panel Agreement awarded, subject to possible redactions at the discretion of the Authority.

The terms of the proposed Panel Agreement will also permit a Panel Customer awarding a Legal Services Contract under this Panel Agreement, to publish the text of that contract, subject to possible redactions at the discretion of the Panel Customer.

Further information on transparency can be found at: <https://www.gov.uk/government/publications/procurement-and-contracting-transparency-requirementsguidance>

From 02.04.14 the Government is introducing its new Government Security Classifications (GSC) classification scheme to replace the current Government Protective Marking Scheme (GPMS). A key aspect of this is the reduction in the number of security classifications used.

All Potential Providers should make themselves aware of the changes as it may impact on this requirement.

The link below to the Gov.uk website provides information on the new GSC: <https://www.gov.uk/government/publications/government-security-classifications>

The Authority expressly reserves the right

(i) not to award any Panel Agreement as a result of the procurement process commenced by publication of this notice; and

(ii) to make whatever changes it may see fit to the content and structure of the tendering competition; and in no circumstances will the Authority be liable for any costs incurred by the Potential Provider.

If the Authority decides to enter into a Panel Agreement with the successful Supplier, this does not mean that there is any guarantee of subsequent Legal Services Contracts being awarded or that there is an exclusivity in any way in respect of the relevant services. Any expenditure, work or effort undertaken prior to contract award is accordingly a matter solely for the commercial judgement of Potential Providers. Any Orders placed under this Panel Agreement will form a separate Legal Services Contract under the scope of this Panel Agreement between the Supplier and the Customer.

The duration referenced in Section II.3) is for the placing of Orders.

This Panel Agreement will be for an Initial Panel Period of three (3) years, with the option to extend for up to one (1) further period of twelve (12) consecutive months.

The value provided in Section II.2.I) is only an estimate. We cannot guarantee to Suppliers any business through the Panel Agreement.

In reference to II.1.5) the anticipated number of participants Panel Agreements will be concluded with for each Tier. This may increase only where two or more Potential Providers have tied scores and are placed in the last position in respect of Tier 2. The Authority will award a Tier 2 Panel Agreement to additional Potential Providers where their Final Score is within 1 % of the original awarded last place position only (irrespective of which Tier the original awarded last place has been awarded). For the avoidance of doubt, last position is 8th.

The time-limit for the receipt of Tender Submissions referenced in Section IV.3.4 is the time-limit for the receipt of Stage 1 Tender Submissions, please refer to Attachment 1 The Invitation for further information regarding timescales.

The following UK public sector bodies are authorised and enabled to use the Panel, subject to approval from CCS and the Primary Customer:

- All Ministerial and Non Ministerial UK Government Departments, including their Executive Agencies and other subsidiary bodies;
- Other parts of Central Government holding Crown Status employing Civil Servants;
- All non-Crown Status Government Companies wholly or partly owned by Central Government Departments and their subsidiaries, including the following:
 - a) High Speed 2 (HS2) Limited; and
 - b) London and Continental Railways Limited.

- The non-Departmental Public Bodies, other Public Bodies, Public Corporations sponsored by Central Government Departments which are not covered by the above categories;
- Any successor bodies to any of the above; and
- The devolved administrations in Scotland, Wales and Northern Ireland together with their respective agencies and their other subsidiary bodies.

The following link sets out details of the bodies that fall within the categories set out above and may be referred to as a point of reference. For the purposes of this Panel, it is those bodies listed in the October 2016 update under the 'Central Government' tab:

<https://www.ons.gov.uk/economy/nationalaccounts/uksectoraccounts/datasets/publicsectorclassificationguide>

- VI.4) **Procedures for appeal**
- VI.4.1) **Body responsible for appeal procedures**
- VI.4.2) **Lodging of appeals**
- VI.4.3) **Service from which information about the lodging of appeals may be obtained**
- VI.5) **Date of dispatch of this notice:**
29.11.2016