



**ARCHIVE SECTOR GUIDANCE AND LEARNING RESOURCES FOR  
DATA PROTECTION COMPLIANCE**

**INVITATION TO TENDER – OPEN COMPETITION**

**DEADLINE FOR TENDER RESPONSES: 5PM (UK TIME), 8 JUNE 2020**

**1 ABOUT US**

- 1.1 The National Archives (TNA) is the official archive and publisher for the UK government, and for England and Wales. We are the guardians of some of our most iconic national documents, dating back over 1,000 years. We are an accredited archive service.
- 1.2 Our role is to collect and secure the future of the government record, both digital and physical, to preserve it for generations to come, and to make it as accessible and available as possible.
- 1.3 We are also responsible for leadership of the archives sector in England and our approach is framed by the strategic vision for archives [Archives Unlocked](#). TNA's business plan, [Archives for Everyone](#) positions leadership of the archives sector as a key priority for us. Our approach to the leadership role is a collaborative one, supporting partnership working to encourage a sustainable and innovative archives sector.

## 2 BACKGROUND TO THE REQUIREMENT

- 2.1 This invitation to tender specifies the requirements for the production of a suite of resources, training materials and guidance aimed at supporting the archive sector in complying with information legislation when providing access to information held in archive collections.
- 2.2 The overall aim is to provide a framework for all those managing requests for access to personal information held in archive collections. The framework will provide a structured approach to decision-making. It will improve competence and confidence levels. It will encourage collection managers to move away from the quest for an unequivocal “right answer” in favour of a deeper and broader understanding of the factors to be considered leading to consistent and reasoned decision-making.
- 2.3 The information legislation landscape itself is complex and does not have access to information held in archive collections as its primary focus. Different compliance regimes apply across the sector: public authorities are subject to Freedom of Information legislation and therefore have very limited scope for privileged access; the National Health Service (NHS) is similar but with extra considerations such as the role of Caldecott Guardians etc.; private archives have more leeway, but generally less resource.
- 2.4 Archive services are under pressure to achieve more than ever before with decreasing staff resources. Very few have access to a specialist with expertise in managing the legislative implications of providing access to archive collections. Many practitioners are risk-averse and nervous of “getting it wrong”.
- 2.5 The National Archives (TNA) has already produced [a set of GDPR FAQs](#) and a [Guide to Archiving Personal Data](#) following the updates to Data Protection legislation in 2018.
- 2.6 The Archive Sector Development Department (ASD) of TNA receives enquiries from archive services and custodians/owners who are seeking clarity and reassurance on how to approach specific requests for access. Anonymised examples of such requests are included in this ITT as Appendix A. ASD would like to move away from providing case-by-case advice in favour of upskilling the sector through additional online training, decision-trees, templates, scenario-based case studies and guidance on how to use a structured and considered approach to access decisions.
- 2.7 The following further details are outlined in this document:
- The service to be provided
  - The information to be provided by tenderers
  - The terms of business relating to the award of any contract
  - Anticipated timetable for the programme

### 3 REQUIREMENT

3.1 This project will identify, consider and address the obstacles which prevent the archive sector feeling confident to take consistent and appropriate decisions when responding to requests for access to information held in archive collections. We perceive that confidence levels are at their lowest with respect to personal data and that consequently, compliance with Data Protection legislation and legislation which governs access to information held in medical records (Access to Medical Records Act, 1990; Access to Healthcare Records Act, 1990) presents the most challenges. This area is therefore the focus of this project.

3.2 The project will:

- Develop a suite of online learning resources which take the learner through the key components of the legislation which affect access to personal data held in archives
- Adopt a layered approach to the learning resources, giving the learner the opportunity to read around an issue at basic, intermediate and expert levels
- Make the learning resources available via the Moodle platform
- Have a very practical focus, offering templates, decision-trees and scenario-based case studies to enable effective decision-making and processing
- Emphasise the need to record the decision-making process to demonstrate that due process has been followed and offer practical ways of doing this for time-poor archive services
- Offer an approach to decision-making which acknowledges that aiming for an unequivocal “correct answer” is unrealistic. Instead the online resource will offer tools to enable practitioners to reach an effective and reasoned judgement which demonstrates due care and consideration of relevant factors in the event of a challenge to individual access decisions
- Reassure collection managers that provided protocols for processing requests for access have been followed, challenges to access decisions which are upheld and become case law should be viewed as constructive learning opportunities for the sector
- Use plain English supported where appropriate by graphics (such as decision trees and flowcharts) to ensure that the online resources are simple, clear and easy to understand and use
- Avoid complex, legalistic, discursive explorations of arcane issues in favour of giving a clear indication of how to manage typical enquiries received by those managing archives
- Emphasise that the online resources do not constitute legal advice
- Raise the competence and confidence of ASD staff on the interpretation and practical application of Data Protection legislation

3.3 The project will achieve this through these processes:

- Identify key services and networks ready to share specific concerns and areas of uncertainty alongside examples of good practice, to act as project consultees and critical friends and to test drafts as required
- Identify the types of request for access to information held in archives which typically cause confusion, hesitation and / or concern. These will form the body

of issues to be addressed in the online resources that will be developed as part of the project

- Ensure that all learning resources, templates, explanations, etc. link back directly to the types of scenario and request for access that the archive sector encounters
- Signpost to existing resources which complement the resources developed as part of the project. This should include options for users to follow up at greater depth
- TNA will confirm with the Information Commissioner's Office (ICO) that it is broadly happy with the approach and content of the new learning materials prior to final sign-off and publication
- Ensure that all learning resources can be updated and refreshed easily by TNA / ASD staff or a 3<sup>rd</sup> party, particularly with respect to emerging case law and best practice

3.4 The Appointed Supplier will work with TNA to select the participating services and networks.

3.5 The maximum available budget for the project is £18,500, excluding VAT but inclusive of all travel and other expenses.

## 4 DELIVERABLES

4.1 **NOTE:** All outputs produced by the supplier must EITHER be capable of being assigned to the Crown OR, if 3<sup>rd</sup> party material is used, the Appointed Supplier must ensure that material can be made available for re-use under Open Government Licence terms.

4.2 A web-based learning resource which comprises:

- An overview **in plain English** of information and other legislation and regulations that affect access to personal data held in archives.
- A learning resource which enables the learner to begin by understanding and embedding the basic principles of the legislation, then incrementally adding in increasing layers of complexity
- An introduction to decision-making based on a structured consideration of the issues inherent within specific types of request
- Decision-trees and / or flow charts which guide the user through the factors which need to be considered in order to reach an access decision
- An overview of the differences between providing access to archives in a searchroom environment as opposed to in response to written requests for access and/or online publication
- Templates which can be customised and used to contact consultees, communicate decisions, etc.
- Model scenarios and / or case studies based on typical requests for access to personal information held in archive collections. These should represent different levels of complexity.
- An explanation of the interplay between Data Protection legislation and other legislation which impacts on access to personal data (such as Human Rights Act, 1998 and the Freedom of Information Act, 2000 and the Re-use of Public Sector Information Act 2015
- A light-touch template and/or process for recording the decision-making process and conclusion
- An explanation of the issues which arise if the request originates from outside the UK
- Guidance on what to do if the access decision is challenged

4.3 A face-to-face training session for staff in TNA's Archive Sector Development Department. This event should cover the content of the online learning resources and also a "train the trainer" element to prepare ASD staff for delivering training to the sector using the same online resources.

4.4 A standalone training event for the archive sector to introduce and explore the online training resources. The training event package must be designed and presented in a format that enables ASD staff to deliver the same package (or a simpler version thereof) at other sector training events upon completion of this project

## **5 ANTICIPATED WORKPLAN/WORK PACKAGES AND MILESTONES**

- 1 Project initiation
- 2 Consultation with the archive sector and TNA in order to source examples of requests which the sector finds challenging, scenarios and / or case studies
- 3 Production of a site map for the online resources, and sense checking with small group of critical friends
- 4 Development of online content
- 5 TNA-led consultation with ICO to confirm their approbation of the approach and content. The consultant/s should anticipate a final edit upon completion of this consultation
- 6 User (archive sector and ASD) testing of online content and subsequent editing
- 7 Face to face training session with ASD staff
- 8 Training event for the sector
- 9 Launch of online content

## 6 DRAFT PROJECT TIMETABLE

- 6.1 The table below represents a draft of the project timetable, with some dates which we have included by way of guidance only. Please tell us in your tender response what your proposed timetable will look like.
- 6.2 Phase 4 below represents a timebox for our discussions with ICO, as outlined in Section 3.3 Bullet Point 5. We anticipate this will take 1 month; please ensure your proposed timetable takes account of this step. In the draft timetable below, extra time has been allowed to account for the Christmas/New Year break.
- 6.3 All work must be completed on or before 31 March 2021 (Phase 6). This is a fixed deadline.

<b>For guidance only, please tell us your proposal in your tender response</b>	
Phase 1 (gather examples, identify critical friends group) completion	1 July 2020
Phase 2 (produce overall site map and overview of content, and sense checking with critical friends group)	1 August 2020
Phase 3 (develop online content)	1 September 2020
Phase 4 (TNA-led consultation with ICO)	1 December 2020
<i>Phase 5 (user testing and final editing)</i>	31 January 2021
<i>Phase 6 (launch of online resources, training events)</i>	31 March 2021

## 7 HOW TO RESPOND

7.1 It is for you to determine what format your Tender Response should take so as to describe your offer in a clear, comprehensive fashion. However please ensure your Tender Response includes **as a minimum**:

- Your **understanding** of the project and deliverables, including the process whereby the site can be updated and maintained in the future
- Your **experience** relevant to the project subject
- Your proposed **methodology**
- Names and experience of **individuals** assigned to the project, detailing their involvement with each phase or unit of the work
- Your **contract price** including breakdown for each phase or unit of work, day rate of each team member and other costs or expenses
- **Confirmation** of your availability for interview on 12 June 2020.

7.2 If you have any clarification questions related to your Tender Response, please submit these to [procurement@nationalarchives.gov.uk](mailto:procurement@nationalarchives.gov.uk) by **5pm (UK time), 21 May 2020**.

7.3 Please submit your Tender Response to [procurement@nationalarchives.gov.uk](mailto:procurement@nationalarchives.gov.uk) by **5pm (UK time), 8 June 2020**.

## 8 EVALUATION

8.1 Your Tender Response will be evaluated using the following criteria:

Category	Maximum pre-weighted score	Weighting	Maximum weighted score
Extent to which proposal demonstrates an understanding of the brief	10	1	20
Knowledge and experience relevant to the project, including understanding of key legislation and issues affecting access to archive collections and delivering training	10	3	30
Quality of methodology and experience in relation to desk-based research and stakeholder engagement and conveying complex issues in simple accessible ways in order to support learning and understanding by non-specialists	10	2	20
Proposed team composition and management	10	1	10
Price	10	2	20

8.2 Price scores will be based on a comparison between each Supplier's price offer, based on the percentage difference from the lowest bid price. The lowest offered price will receive the maximum pre-weighted score of 10 points, a price which is 20% higher will receive a score of 8 (ie the maximum score minus 20%).

8.3 Other categories will be evaluated according to the table below:

<b>10 Points</b>	<p><b>Outstanding:</b></p> <ul style="list-style-type: none"> <li>• Potential Supplier has provided a response that addresses all parts of the requirement</li> <li>• Potential Supplier has provided evidence to support all elements of their response</li> <li>• The evidence supplied is convincing and highly relevant to the requirement</li> <li>• Potential Supplier's response is clear and easy to understand</li> <li>• Where relevant, Potential Supplier has demonstrated a high level of capability to deliver new and innovative service approaches</li> </ul>
<b>7 Points</b>	<p><b>Good:</b></p> <ul style="list-style-type: none"> <li>• Potential Supplier has provided a response that addresses all parts of the requirement</li> <li>• Potential Supplier has provided evidence to support most elements of their response</li> </ul>

	<ul style="list-style-type: none"> <li>• The evidence supplied is good and relevant to the requirement</li> <li>• Potential Supplier's response is clear and easy to understand</li> <li>• Where relevant, Potential Supplier has demonstrated some level of capability to deliver new and innovative service approaches</li> </ul>
<p style="text-align: center;"><b>4 Points</b></p>	<p><b>Average:</b></p> <ul style="list-style-type: none"> <li>• Potential Supplier has provided a response that addresses some parts of the requirement</li> <li>• Potential Supplier has provided evidence to support some elements of their response, but not all</li> <li>• The evidence supplied has some limited relevance to the requirement</li> <li>• Potential Supplier's response is not always clear and easy to understand</li> <li>• Where relevant, Potential Supplier has demonstrated limited capability to deliver new and innovative service approaches</li> </ul>
<p style="text-align: center;"><b>1 Point</b></p>	<p><b>Poor:</b></p> <ul style="list-style-type: none"> <li>• Potential Supplier has provided a response that fails to address most parts of the requirement</li> <li>• Potential Supplier has provided little or no evidence to support most elements of their response</li> <li>• The evidence supplied is very weak and has very limited relevance to the requirement</li> <li>• Potential Supplier's response is not always clear and easy to understand</li> <li>• Where relevant, Potential Supplier has demonstrated little or no capability to deliver new and innovative service approaches</li> </ul>

## 9 PROCUREMENT TIMETABLE

Deadline for clarification questions *	5pm (UK time), 21 May 2020
Deadline for proposals	5pm (UK time), 8 June 2020
Interviews	12 June 2020 – <i>please keep this date free in case you are requested to interview</i>
Appointment and contract award	17 June 2020
Project completion	31 March 2021

\* *Any clarification question received that TNA deems to be relevant to more than one Potential Supplier may be shared with all Potential Suppliers.*

## **10 CONTRACT TERMS**

- 10.1 The contract will be awarded subject to our standard terms and conditions, which can be found [here](#).
- 10.2 TNA reserves the right not to award and to complete its objectives through other means.