

# **Invitation to Tender**

**To provide Legal advice  
for the Establishment of the South West Loans Legacy  
Fund (2016 ) for the SW Region (excluding Cornwall and  
the Isles of Scilly)**

**March 2016**

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## Background/Context

South West Investment Group (Capital) Limited (**SWIG Capital**) is the fund holding subsidiary of South West Investment Group Limited, a company limited by guarantee, which has been active in the provision of loans and other finance for business in the region since 1989. The £11m South West Loans Fund (**SWLF**) was established in 2009, partly funded by the European Regional Development Fund and the South West Regional Development Agency. The fund is divided into two geographical areas – Convergence (Cornwall and the Isles of Scilly) and Competitiveness (**the Rest of the South West region**).

The SWLF will produce 2 separate legacies. Firstly one for Cornwall and the Isles of Scilly region which will be used for new funds being planned with the new ERDF programme. Secondly, and the focus of this tender, a legacy for the Rest of the South West region which on current estimates will amount to £3.2m. These monies are deemed to be 'other public' monies. It has been agreed by the Department of Communities and Local Government (**DCLG**) and the British Business Bank (**BBB**) that these monies can be used in a new fund organised as an extension to the existing SWLF Competitiveness contract and based largely on the original Funding Agreement with modifications agreed by exchange of letters.

SWIG Capital proposes to add additional finance from its own resources to these monies and establish a fund of £4m to lend to SME businesses in sums from £75K to £250K in the LEP areas of Heart of the South West, West of England, Gloucestershire, Dorset and Swindon and Wiltshire (**New Fund**).

SWIG Capital wishes to appoint a fund manager for the New Fund, which will be undertaken through an OJEU procurement process.

To assist in the establishment of the New Fund SWIG Capital wishes to appoint a legal advisor with experience of working with financial instruments, public sector and ERDF funding and procurement law to carry out the services set out below.

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## **Scope of Service**

SWIG Capital wishes to appoint a suitably qualified advisor to provide legal services on key elements of the establishment of the New Fund as follows

The service provided shall include and incorporate the following:-

1. Reviewing and advising on the existing documentation such as SWIG Capital's Standard Loan agreements, Investment and Operating guidelines to be used by the appointed fund managers.
2. Advising on the OJEU procurement of the fund manager to ensure that SWIG Capital follows the correct procedures and uses compliant documentation.
3. Reviewing and advising on the existing Fund Manager agreement documentation to improve clarity, control, reporting and performance.
4. To assist in any other legal matters regarding the establishment of the New Fund.

## **Tender Information and Requirement**

A budget has been set for this commission of up to £20,000 (excl. VAT), to include all out of pocket expenses and disbursements. SWIG Capital will appoint a contract manager to monitor the progress of this contract, to be advised following appointment

Timescale – please refer to the timetable below.

All information and advice provided during, and on completion of, the commission is to be provided electronically in MS Word format. Hard copies of specific advice and reports may also be required.

Please note it will be necessary to make available to DCLG and BBB the legal advice and documentation on a non-reliance basis where appropriate.

## **Tender Award Criteria**

The tenders will be assessed as follows:-

1. Scored assessment - tenders will be scored on the basis of experience and quality (70%) and cost (30%).

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2. The tenderer must also provide satisfactory evidence that it complies with the Corporate Requirements set out below. Please note that compliance with this is a condition of the contract being awarded.

The commission may be awarded to the most economically advantageous tender submission.

### **Tender Clarifications**

Any clarification queries arising from these Tender Documents should be raised with the SWIG Capital contact by email (Jenny Nott, Contract Management Executive – email [jenny@swigcapital.co.uk](mailto:jenny@swigcapital.co.uk) copied to [finance@swigcapital.co.uk](mailto:finance@swigcapital.co.uk)) as soon as possible, and in accordance with the Tender Timetable below.

No representation by way of explanation or otherwise to persons or corporations tendering or desirous of tendering as to the meaning of the tender or other Tender Documents or as to any other matter or thing to be done under the proposed engagement shall bind SWIG Capital unless such representation is in writing and duly signed by a director of SWIG Capital.

### **Point of Contact**

Tenderers must provide a single point of contact in their organisation for all contact between the tenderer and SWIG Capital during the tender selection process.

### **Tender and Commission Timetable**

The anticipated timetable for submission of the tender and interim milestones is set out below.

<b>Milestones</b>	<b>Date</b>
Posting of invitation to tender on Contract Finder	30 March 2016
Latest date for raising clarifications (by email)	11 April 2016
Final date/time for clarifications to be communicated by SWIG Capital	15 April 2016
<b>Deadline to return response to the Tender to SWIG Capital</b>	<b>22 April 2016</b>

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Evaluation of response to Tender by SWIG Capital	By 28 April 2016
Award of Contract by SWIG Capital	By 4 May 2016
Inception meeting in Truro & commencement of Service provision	During the week commencing 9 May 2016

## Corporate Requirements

SWIG Capital wishes to ensure that its contractors, suppliers and advisers comply with its corporate requirements. It is therefore necessary to ensure that the Tenderer can evidence its ability to meet these requirements when providing the services under this commission.

**All tender returns must include evidence of the following.** This is a pre-requisite if the tender return is to be considered.

### *Equality and Diversity*

SWIG Capital is committed to providing services in a way that promotes equality of opportunity. It is expected that the successful tenderer will be equally committed to equality and diversity in its service provision and will ensure compliance with all anti-discrimination legislation. **If successful you will be required to provide a copy of your Equality and Diversity Policies/Practices**

### *Environmental Policy*

SWIG Capital is committed to sustainable development and the promotion of good environmental management. It is expected that the successful tenderer will be committed to a process of improvement with regard to environmental issues. **If successful you will be required to provide a copy of your Environmental Policy /Practices**

### *Indemnity and Insurance*

The tenderer must effect and maintain with reputable insurers such policy or policies of insurance as may be necessary to cover the supplier's obligations and liabilities under the engagement to provide the services,

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- Professional indemnity insurance with a limit of liability of not less than **£500,000**;
- Public liability insurance with a limit of liability of not less than **£500,000**;
- Employers liability insurance with a limit of liability of not less than **£500,000**;

All insurances shall cover for any one occurrence or series of occurrences arising out of any one event during the performance of this service.

The tenderer should note that the following Corporate Requirements will also apply;

#### *Freedom of Information Legislation*

SWIG Capital may be obliged to disclose information provided by bidders in response to this tender under the Freedom of Information Act 2000 and all subordinate legislation made under this Act and the Environmental Information Regulations 2004 (“the Freedom of Information Legislation”).

Tenderers should therefore be aware that the information they provide could be disclosed in response to a request under the Freedom of Information Legislation. SWIG Capital will proceed on the basis of disclosure unless an appropriate exemption applies. Tenderers should be aware that despite the availability of some exemptions, information may still be disclosed if it is in the public interest.

#### *Prevention of Bribery*

Tenderers are hereby notified that SWIG Capital is subject to the regulations of the Bribery Act 2010 and therefore has a duty to ensure that all tenderers will comply with applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including, but not limited to, this legislation.

#### *Health and Safety*

The Tenderer must at all times comply with the requirements of the Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1992 and all other statutory and regulatory requirements.

#### *Conflicts of Interest*

**Tenderers must provide a clear statement with regard to potential conflicts of interests.**

**Therefore, please confirm whether, to the best of your knowledge, there is any conflict of interest between your organisation and SWIG Capital or its project team that is likely to influence the outcome of this procurement either directly or indirectly through financial, economic or other personal interest which**

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**might be perceived to compromise the impartiality and independence of any party in the context of this procurement procedure.**

Receipt of this statement will permit SWIG Capital to ensure that, in the event of a conflict of interest being notified/noticed, appropriate steps are taken to ensure that the evaluation of any submission will be undertaken by an independent and impartial panel.

### **Exclusion**

SWIG Capital shall exclude the Tenderer from participation in this procurement procedure where they have established or are otherwise aware that the organisation to include administrative, management or supervisory staff that have powers of representation, decision or control of the Tenderer's organisation, has been the subject of a conviction by final judgment of one of the following reasons:-

- Participation in a criminal organisation
- Corruption
- Fraud
- Terrorist offences or offences linked to terrorist activities
- Money laundering or terrorist financing
- Child labour and other forms of trafficking in human beings

### **No Sub-Contracting**

Tenderers should note that the sub-contracting of any aspect of this commission will not be allowed.

### **Tender Requirements**

Tenders may be submitted in either paper or electronic form, but must comply with all requirements within this tender brief.

### **All tender returns must include a covering letter setting out the following;**

1. That the Tenderer has the resources available to meet the requirements outlined in the brief - and within the tender timetable above.
2. That the Tenderer will be able to meet the Corporate Requirements above, to include confirmation that Equality and Diversity and Environmental policies are in place and if successful supporting documentation will be provided as evidence, together with the appropriate conflict of interest statement.
3. The Tenderer shall provide confirmation that the above insurance policies are current and if they are due to expire during the course of the commission to provide renewal notices prior to their expiry date(s).

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4. The point of contact within your organisation in relation to this tender.

**All tender returns must also include;**

**Quality and experience offer (70%)**

Supporting evidence to demonstrate that the tenderer is able to fulfil the quality and experience requirements of this tender;

The quality of each submission will be assessed on the basis of the following evidence:-

- CVs of the individuals who will be actively involved in delivering the service and who are costed into the tender. Please limit to 2 sides of A4 per individual. – 20%
- Details of previous relevant commissions delivered and/or activity undertaken by the individuals above, within last 3 years, with an explanation as to why this is considered to be relevant. Please limit to 2 sides of A4 in total. -20%
- Knowledge and experience of OJEU procurement and processes to assist SWIG Capital in the preparation of tenders for fund managers and knowledge of public sector and ERDF financial instruments and funding including associated processes. Please limit to 2 pages of A4 – 20%
- Knowledge and experience of drafting and advising on contracts for fund managers of investment funds for SMEs. Please limit to pages of A4 – 20%
- Information to demonstrate good knowledge of drafting and advising on standard documentation (eg loan agreements and security documentation) for business lending and investment finance to SMEs Please limit to 2 sides of A4 in total -20%

**Cost Offer (30%)**

Total cost of providing the services requested (excluding VAT) with a breakdown to include:-

- All personnel involved in the work, the allocated number of hours for each individual and their respective hourly rates.

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- A breakdown of any anticipated out of pocket expenses / disbursements.

### **Tender Assessment**

The Tender return will be assessed as follows:-

Subject to receipt of satisfactory evidence that the Corporate Requirements have been met, the tender return will then be scored on the basis of 'cost' and 'quality', using the scoring criteria/percentages referred to above.

### **Tender Award**

Any contract awarded as a result of this tender process will be in accordance with the attached SWIG Capital standard terms and conditions.

### **Tender Returns**

Tenders may be returned by email or post, or by delivery in person.

**Latest date to be returned: 3 pm on 22 April 2016**

If submitting by email, tenders should be sent electronically to [finance@swigcapital.co.uk](mailto:finance@swigcapital.co.uk) copy to [jenny@swigcapital.co.uk](mailto:jenny@swigcapital.co.uk) with the following message **clearly noted in the Subject box; 'Tender South West Loans Fund - SDR'**

Tenderers are advised to request an acknowledgement of receipt when submitted by email.

If submitting by post or in person, the Tender must be enclosed in a sealed envelope, only marked as follows:-

**'Tender –South West Loans Fund – SDR Strictly Confidential'**

**For the attention of Jenny Nott**

**Addressed to:**

**South West Investment Group (Capital) Limited**

**Lowena House**

**Glenthorne Court**

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## **Truro Business Park**

### **TR4 9NY**

The envelope should not give any indication to the Tenderer's identity. Marking by the carrier will not disqualify the tender.

#### **Disclaimer**

The issue of this documentation does not commit SWIG Capital to award any contract pursuant to the tender process or enter into a contractual relationship with any Tenderer. Nothing in the documentation or in any other communications made between SWIG Capital or its agents and any other party, or any part thereof, shall be taken as constituting a contract, agreement or representation between SWIG Capital and any other party (save for a formal award of contract made in writing by or on behalf of SWIG Capital).

Tenderers must obtain for themselves, at their own responsibility and expense, all information necessary for the preparation of their tender responses. Information supplied to the tenderers by SWIG Capital or any information contained in SWIG Capital publications is supplied only for general guidance in the preparation of the tender response. Tenderers must satisfy themselves by their own investigations as to the accuracy of any such information and no responsibility is accepted by SWIG Capital for any loss or damage of whatever kind and howsoever caused arising from the use by tenderers of such information.

Tenderers shall be responsible for their own costs and expenses in connection with or arising out of their response. SWIG Capital reserves the right to vary or change all or any part of the basis of the procedures for the procurement process at any time or not to proceed with the proposed procurement at all.

Cancellation of the procurement process (at any time) under any circumstances will not render SWIG Capital liable for any costs or expenses incurred by tenderers during the procurement process.

SWIG Capital reserves the right not to award the contract to the Tenderer who has the highest score under the scoring assessment set out above.

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