

Invitation to tender

Attachment 1 – About the panel

RM3788 Wider Public Sector Legal Services

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## **Welcome**

We invite you to bid in this competition for RM3788 Wider Public Sector Legal Services. Our Invitation to Tender (ITT) pack comes in three main parts:

**Attachment 1 - About the panel** (this document) – who ‘we’ and ‘you’ are, who can bid, the timelines for this competition, the competition rules, obligations and rights between you and us, plus information about the panel legal terms.

The other two parts are:

**Attachment 2 - What customers need** – everything you need to know about what the customers need, plus information about the call off legal terms.

**Attachment 3 - How to bid** – guidance on how to submit your bid, the selection and award stages and how we will assess your bid.

You must use our eSourcing suite, to submit your bid  
<https://crowncommercialservice.bravosolution.co.uk>

There are 11 other attachments to the ITT pack. These attachment are:

Attachment 2a	Information and declaration workbook
Attachment 4	Panel Agreement
Attachment 4a	Order form terms and conditions
Attachment 5	Pricing matrix
Attachment 6	Consortia details
Attachment 7	Key subcontractor details
Attachment 8	Bidder guidance (eSourcing suite)
Attachment 9	Panel Agreement population template
Attachment 10	Supplier financial assessment template
Attachment 11	Lot 1 Specialisms and Regions
Attachment 12	Lot 2 Optional Specialisms

Make sure you read all the guidance, information and instructions that we provide – The guidance, information and instructions that we provide are there to help you to make a compliant bid.

We hope everything is clear – if it is not, we explain in paragraph 5 of this document when and how you can ask questions.

Please read attachment 8 Bidder guidance for help with using our e-Sourcing suite and instructions on how to submit a compliant bid.

## **1. What 'we' and 'you' means**

When we use “CCS”, “we”, “us” or “our” we mean Crown Commercial Service (the Authority);

When we use “you” or “your” we mean your organisation, or the organisation you represent, in this competition also referred to as bidder.

We are the central purchasing body that procures common goods and services for customers including central government departments and the wider public sector.

The Public Contracts Regulations 2015 regulate how we procure. This means that we and you have to follow processes that are fair, transparent and equitable for all bidders.

### **1.1 Who are 'customers'?**

Customers are the organisations named in the published contract notice as those able to place call-off orders for the deliverables via this panel. They will do this in line with panel schedule 6 (award criteria).

### **1.2 What is a 'lot'?**

A lot is sub-division of the deliverables which are the subject of this competition as described in the published contract notice.

### **1.3 What do we mean by 'deliverables'?**

Deliverables are the services that will be provided under this panel agreement as set out in section 2 of attachment 2 – what customers need (specification) which will form Panel Schedule 2, Part A: Services following award.

### **1.4 Who are 'key sub-contractors'?**

Key sub-contractors are any other person other than you who under this panel contract will:

- be relied on to deliver any of the deliverables under this panel contract in their entirety (or any part of them)
- provide the facilities or services necessary for the provision of the deliverables (or any part of them)
- be responsible for the management, direction or control of the provision of the deliverables (or any part of them)

Please note we do not require all sub-contractors to be named in your bid, we only want to know about key sub-contractors who directly contribute to your ability to provide the deliverables under the panel and any call-off contracts. We do not need to know about sub-contractors who supply general services to you (such as window cleaners etc.) that only indirectly enable you provide the deliverables under the panel.

### **1.5 What is the difference between a bidder and supplier?**

Successful bidders will become suppliers.

## 2. Who can bid

- 2.1 We are running this competition using the open procedure. This means that anyone can submit a bid in response to the published contract notice.
- 2.2 The contract notice can be found on tenders electronic daily (TED) and our website <http://ccs-agreements.cabinetoffice.gov.uk/procurement-pipeline>
- 2.3 You can submit a bid as a single legal entity. Alternatively, you can take one or both of the following options:
- you can work together with other legal entities to form a consortium. If you do, we ask the consortium to choose a lead member who will submit the bid on behalf of the consortium.
  - you can bid with named Key sub-contractors to deliver parts of the requirements. This applies whether you are bidding as a single legal entity or as a consortium.
- 2.4 If you are using either or both of these options, you will have to identify what each of the parties is contributing to the bid. You can do this in attachment 3 - How to bid.
- 2.5 We recognise that plans in relation to sub-contracting or a consortium may be subject to change up to contract award. You must tell us about any changes to the proposed sub-contracting or to the consortium as soon as you know. If you do not, you may be excluded from this competition.

## 3. The panel agreement

### 3.1 How the panel agreement is structured

A panel is a contract with one or more suppliers to set out terms and conditions for customers who choose to make specific purchases ('call offs') during the life of the panel.

This competition will establish a multi-supplier panel agreement.

The Panel will comprise of 5 lots:

LOT	DESCRIPTION	Anticipated Maximum number of Suppliers per Lot
Lot 1	Regional Service Provision	80
Lot 2	<b>Full Service Firms</b> 2a Full Service Firms for England and Wales 2b Full Service Firms for Scotland 2c Full Service Firms for Northern Ireland	13 17 16
Lot 3	Property and Construction	6

LOT	DESCRIPTION	Anticipated Maximum number of Suppliers per Lot
Lot 4	Transport Rail	5
Lot 5	Cost Lawyer Services	7

Bidders can bid for all lots, however they will only be awarded a maximum of 4 lots from combinations of 1+3+4+5 or 2+3+4+5.

Bidders must indicate their preferred choice of Lot 1 or 2 at question 1.13.2 of the selection questionnaire if successful for both lots 1 and 2. For the avoidance of doubt bidders will not be awarded a place on both lots 1 and 2.

The duration of the panel agreement is for three (3) years, with the option for us to extend for one period of twelve months (12) at CCS' discretion if we wish to do so.

The estimated value of Legal Service Contracts that may be placed under this panel agreement is set out in the OJEU notice.

CCS cannot guarantee any business through this panel.

When customers want to make purchases, they will call off from the panel using the order procedure terms and conditions set out in Panel Agreement Schedule 4. If the customer decides to buy from you, you and the customer form a Legal Services contract for the purchase. Over the life of a panel there are typically many call offs. Each call off is normally between one customer and one supplier but sometimes customers pool their demand and award jointly to one supplier.

### 3.2 If you are awarded a place on the panel

If you are awarded a place on the panel, the Specification as set out in section 2 of Attachment 2 – What customers need will be incorporated in to Panel Schedule 2 Part A: Services of the Panel Agreement Terms and Conditions (Attachment 4). The Panel terms will be personalised with the information you have submitted in your bid, ready for signing by you and us. You must sign and return the signature page of the Panel Agreement within ten (10) days of being asked. If you do not sign and return, we will withdraw our offer of a panel agreement.

The panel agreement will be signed and managed by you and us.

We will collect the management information and the management charge 1.5%; see Panel Agreement clause 20 and schedule 9: Management Information.

After the panel start date, customers can buy from suppliers using the panel. They will do this in line with panel schedule 6 (award criteria).

The customer will manage your day to day performance of any Legal Service contracts.

### 3.3 What a panel is

A panel is an agreement with one or more suppliers to set out terms and conditions for customers making specific purchases (call offs) awarded during the life of the panel.

If you are a successful bidder, you will become a supplier. The Panel Agreement will be signed and managed by you and us. Customers can then use the panel to make specific call offs. Each call off agreement will be signed and managed by you and the customer. There may be multiple call off agreements under one panel agreement.

The terms and conditions for this panel agreement are set out in Attachment 4 – Panel Agreement terms and conditions which include additional schedules such as: panel schedule 2 part a – services and Attachment 4a – Order Form Contract terms and conditions.

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') is therefore subject to limited regulation and will be conducted in accordance with regulations 74 to 76 PCR 2015

#### 4. Timelines for the competition

- 4.1 These are our intended timelines. We will try to achieve these but, for a range of reasons, dates can change as the competition progresses. We will tell you if and when timelines change:

Start Date (this is the date we submitted the Contract Notice to be published)	22/05/2018
Clarification Questions Deadline	15:00 – 06/06/2018
Deadline for our responses to clarification questions	08/06/2018
Bid Submission Deadline	15:00 - 15/06/2018
Issue of intention to award notices to successful and unsuccessful bidders	17/08/2018
End of mandatory Standstill Period	midnight at the end of 27/08/2018
Award of panel agreements	28/08/2018
Panel start date	29/08/2018

This procurement is being run under the 'Light Touch Regime', however CCS has chosen to observe a Standstill Period. The Standstill Period will commence after the Panel Agreement places have been allocated.

## **5. When and how to ask questions**

- 5.1 We hope everything is clear to you after you have read all our ITT pack and its attachments.
- 5.2 If you have any questions you need to ask them as soon as possible after the Start Date. This is because we have set a deadline for submitting questions – the Clarifications Questions Deadline. This will give you the chance to check that you understand everything before you submit your bid.
- 5.3 You need to send your questions through the eSourcing Suite. This is the only way we can communicate with bidders. Try to ensure your question is specific and clear. Do not include your identity in the question. This is because we publish all the questions and our responses, to all bidders.
- 5.4 If you feel that a particular question should not be published, you must tell us why when you ask the question. We will decide whether or not to publish the question and response.
- 5.5 Remember that you can ask us questions about the Panel Agreement and Order Form contract but please do not attempt to 'negotiate' the terms. All panel awards will be made under identical terms.

## **6. TUPE**

- 6.1 We do not consider that the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") to be an issue in respect of this procurement at panel level, as no services are provided to CCS under any existing panel contract or arrangements that this panel will replace.
- 6.2 It is your responsibility to take your own advice and consider whether TUPE is likely to apply and to act accordingly.
- 6.3 You are encouraged to carry out your own due diligence to understand if TUPE may apply at call off level to Legal Service contracts because:
  - services which are fundamentally the same as what we need under this procurement are currently being provided either in-house or by a supplier.
  - The responsibility for delivering those or comparable services will transfer to the supplier who is awarded the call-off contract.

## **7. Competition rules**

We run our competitions so that they are fair and transparent for all bidders. This section (competition rules) sets out the conditions of participation for this competition. It needs to be read together with section 3 (The panel agreement) and with Attachment 2 - What customers need and Attachment 3 - How to bid and the other attachments to this invitation to tender pack.

## **7.1 What you can expect from us**

We will not share any information from your bid with third parties, apart from other central government bodies (and their related bodies), which you have identified as being confidential or commercially sensitive. However, we may share this information but only in line with the Regulations, the Freedom of Information Act 2000 (FOIA) or any other law as applicable.

## **7.2 What we expect from you**

You must comply with these competition rules and the instructions in this ITT pack and any other instructions given by us. You must also ensure members of your consortium, group companies, key sub-contractors or advisers comply.

Your bid must remain valid for six (6) months after the Bid Submission Deadline.

You must submit your bid in English and through the eSourcing Suite only.

## **7.3 Involvement in multiple bids**

If you are connected with another bid for the same requirement or lot, we may make further enquiries. For example, where:

- you submit a bid in your own name and as a key sub-contractor and/or a member of a consortium connected with a separate bid; or
- you submit a bid in your own name which is similar to a separate bid from another bidder within your group of companies.

This is so we can be sure that your involvement does not cause:

- potential or actual conflicts of interest;
- supplier capacity problems; or
- restrictions or distortions in competition.

We may require you to amend or withdraw all or part of your bid if, in our reasonable opinion, any of the above issues have arisen or may arise.

## **7.4 Collusive Behaviour**

You must not and you make sure that your directors, employees, sub-contractors, key sub-contractors, advisors, companies within your group or members of your consortia do not:

- fix or adjust any part of your bid by agreement or arrangement with any other person, except where, getting quotes necessary for your bid or to get any necessary security;
- communicate with any person other than us the value, price or rates set out in your bid or information which would enable the precise or approximate value, price or rates to be calculated by any other person except where such communication is undertaken with persons who are also participants in your bid

submission, namely those where disclosure to such person is made in confidence in order to obtain quotes necessary for your bid or to get any necessary security

- enter into any agreement or arrangement with any other bidder, so that bidder does not submit a bid;
- share, permit or disclose to another person, access to any information relating to your bid submission (or another bid submission to which you are party); or
- offer or agree to pay or give any sum or sums of money, inducement or valuable consideration directly or indirectly to any other person for doing or having done or causing or having caused to be done in relation to its bid submission.

If you do breach paragraph (7.4) we may (without prejudice to any other criminal or civil remedies available to it) disqualify you from further participation in this competition.

We may require you to put in place any procedures or undertake any such action(s) that we in our sole discretion considers necessary to prevent or stop any collusive behaviour.

### **7.5 Contracting Arrangements**

Only you or, as applicable, your key sub-contractors (as set out in your bid) or consortium members can provide services through the panel agreement.

### **7.6 Contracting Arrangements for Consortia**

We may require a consortium to form a specific legal entity when signing a panel agreement. We may also require a member to sign a panel guarantee on behalf of the legal entity.

Otherwise, each member will sign the panel agreement.

### **7.7 Bidder conduct and conflicts of interest**

You must not attempt to influence the contract award process. For example, you must not directly or indirectly at any time:

- collude with other others over the content and submission of bids. However, you may work in good faith with a proposed partner, supplier, consortium member or provider of finance.
- directly or indirectly canvass any Minister, officer, public sector employee, member or agent our staff or advisors in relation to this competition.
- attempt to obtain information from any of our staff or advisors about another bidder or bid.

You must ensure that no conflicts of interest exist between you and us. If you do not tell us about a known conflict, we may exclude you from the competition. We may also exclude you if a conflict cannot be dealt with in any other way.

### **7.8 Confidentiality and Freedom of Information**

You must keep the contents of this ITT pack confidential unless it is already in the public domain; you must keep the fact you have received it confidential. This obligation shall not apply insofar as:

- enabling you to submit a bid; or
- compliance with a legal obligation.

## **7.9 Publicity**

You must not publicise the services or the award of any Panel Agreement or Call-Off Contract unless we have given express written consent. For example, you are not allowed to make statements to the media regarding any bid or its contents.

## **7.10 Our rights**

We reserve the right to:

- waive or change the requirements of this ITT pack from time to time without notice.
- verify information, seek clarification or require evidence or further information in respect of your bid.
- exclude you if:
  - you submit a non-compliant bid;
  - your bid contains false or misleading information;
  - you fail to tell us of any change in the contracting arrangements between tender submission and award. Or, if you do tell us, allowing the change in the contracting arrangements would result in a breach of procurement law;
  - for any other reason set out elsewhere in this ITT pack;
  - for any reason set out in the Public Contract Regulations 2015;
  - withdraw this ITT pack at any time, or re-invite bids on the same or alternative basis;
  - choose not to award any Panel Agreement or Lot as a result of the competition;
  - choose to award different Lots at different times;
  - make any changes to the timetable, structure or content of the competition.

## **7.11 Consequences of misrepresentation**

If a serious misrepresentation by you induces us to enter into a panel contract with you, you may be:

- excluded from bidding for contracts for three years under regulation 57(8)(h)(i) of the Regulations
- sued by us for damages, and we may rescind the contract under the Misrepresentation Act 1967.

If fraud, or fraudulent intent, can be proved, you may be prosecuted and convicted of the offence of fraud by false representation under s.2 of the Fraud Act 2006, which can carry a sentence of up to 10 years or a fine (or both).

If there is a conviction, then your organisation must be excluded from the procurement procedure for five years under regulation 57(1) of the Regulations (subject to self-cleaning).

### **7.12 Bid costs**

We will not pay your bid costs for any reason e.g. if we terminate or amend the competition.

### **7.13 Warnings and disclaimers**

We will not be liable:

- where parts of the ITT pack are not accurate, adequate or complete; or
- for any written or verbal communications.

You carry out your own due diligence and rely on your own enquiries.

This ITT pack is not a commitment by us to enter into a contract.

### **7.14 Intellectual Property Rights**

The ITT pack remains our property. You must use the ITT pack only for this competition.

You allow us to copy, amend and reproduce your bid so we can:

- run the competition;
- comply with law and guidance;
- carry out our business.

Our advisors, sub-contractors and other government bodies can use your bid for the same purposes.