



Crown
Commercial
Service

Wider Public Sector Legal Services

RM3788 Customer guidance



Key information

Panel Title:	Wider Public Sector Legal Services
Panel reference:	RM3788
Start Date:	November 2018
End Date:	30 September 2021 (with an option to extend by 1 year to 30 September 2022)
Who can use it:	<p>All the public sector bodies listed in the OJEU contract notice which includes health; education; local and regional government; emergency services; third sector and social housing organisations.</p> <p>Note: Ministerial and non-ministerial government departments and their arm's length bodies and agencies can only use lot 1 for transactional property and litigation where the value per matter is £20,0000 or less.</p>
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Introduction

Purpose of this document

This guidance forms part of a comprehensive suite of documents to help customers buy legal services through the Wider Public Sector Legal Services Panel (RM3788). Some of these templates will require amendment to reflect your specific requirements.

This document is not a legal document and is to be used as guidance only.

Background

This panel has been established by CCS to provide a simple self service and compliant route to market for a range of legal services requirements for the wider public sector.

It forms part of the wider strategy for legal services provision, which includes three panel agreements for central government customers: General Legal Advice Services (RM3786), Rail Legal Services (RM3756) and Finance & Complex Legal Services (RM3787).

Who can access the panel?

This panel can be used generally by wider public sector and third sector bodies. Central government customers can only access lot 1 by exception for litigation and transactional property work where the fees per matter are £20,000 or less. Full details of all bodies eligible to use this panel can be found in the [OJEU contract notice 2018/S 098-223744](#)

Features and benefits

- Easy access to a comprehensive list of legal services including specialist lots covering property & construction and transport rail.
- Full legal jurisdictional coverage across England and Wales, Scotland and Northern Ireland.
- SME focused with access to regional and niche suppliers.
- Flexible call-off terms available via both direct award and further competition.
- Highly competitive hourly, daily and monthly rates, with options for fixed fees and/or alternative fee arrangements via direct award and further competition.
- Streamlined and simplified supplier selection through to contract award via an award support tool.
- Value added benefit of 2 hours free legal advice per call-off.
- Simplified tender documents, templates and standard panel terms and conditions agreed by all suppliers.

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Panel scope

The panel is structured in 4 lots:

Lot 1 - Regional service provision

Lot 1 provides customers with legal services for a minimum of one (1) of the fourteen (14) legal specialisms, within a minimum of one (1) of the thirteen (13) UK NUTS regions.

- regional based service provision
- range of legal specialisms
- low to medium value transactions

Who can use lot 1?

All the bodies listed in the OJEU contract notice.

Central government customers can access lot 1 for the following specialisms only, and where the fees per matter are £20,000 or less:

- transactional property work (including non-complex conveyancing and work relating to leases and licences)
- employment litigation or other litigation work

Lot 2 - Lot 2a, 2b and 2c Full service firms

Lots 2a, 2b and 2c provide customers with commercial legal services for all seventeen (17) legal specialisms (“full service firms”) contained within the mandatory requirements for lot 2, within the applicable jurisdictional area.

Central government customers cannot use this lot. Central government customers requiring full service support should use General Legal Advice Services RM3786 and Finance and Complex Legal Services RM3787.

Lot 2a - Context

- Full service firms
- Jurisdictional area - England and Wales
- Mandatory and optional legal specialisms within the lot.

Lot 2b

- Full service firms
- Jurisdictional area – Scotland
- Mandatory and optional legal specialisms within the lot.

Lot 2c

- Full service firms
- Jurisdictional Area - Northern Ireland
- Mandatory and optional legal specialisms within the lot.

Lot 3 - Property and Construction

Lot 3 provides customers with legal services for property and construction contained within the mandatory service requirements on a national (UK) basis. Central government customers cannot use this lot. Central government customers requiring property and construction should use General Legal Advice Services RM3786 and Finance and Complex Legal Services RM3787.

Lot 4 - Transport Rail

Lot 4 provides customers with legal services for transport rail contained within the mandatory service requirements on a national (UK) basis.

Central government customers cannot use this lot. Central government customers should use Rail Legal Services (RM3756).

The panel specialisms – General Legal Services – Lots 1 and 2

The panel provides access to a comprehensive list of legal services, provided by a dynamic pool of legal service providers and the key features are highlighted below:

Lot 1 - Regional Service Provision

Specialisms:

- Property and construction
- Social housing
- Child law
- Court of protection
- Education
- Debt recovery
- Planning and environment
- Licensing
- Pensions
- Litigation / dispute resolution
- Intellectual property
- Employment
- Healthcare
- Primary care

Lot 2 - Full Service Firms

Mandatory Specialisms:

- Administrative and public law
- Banking and Finance
- Contracts
- Competition law
- Corporate and M&A
- Data protection and information law
- Employment
- Information technology
- Infrastructure

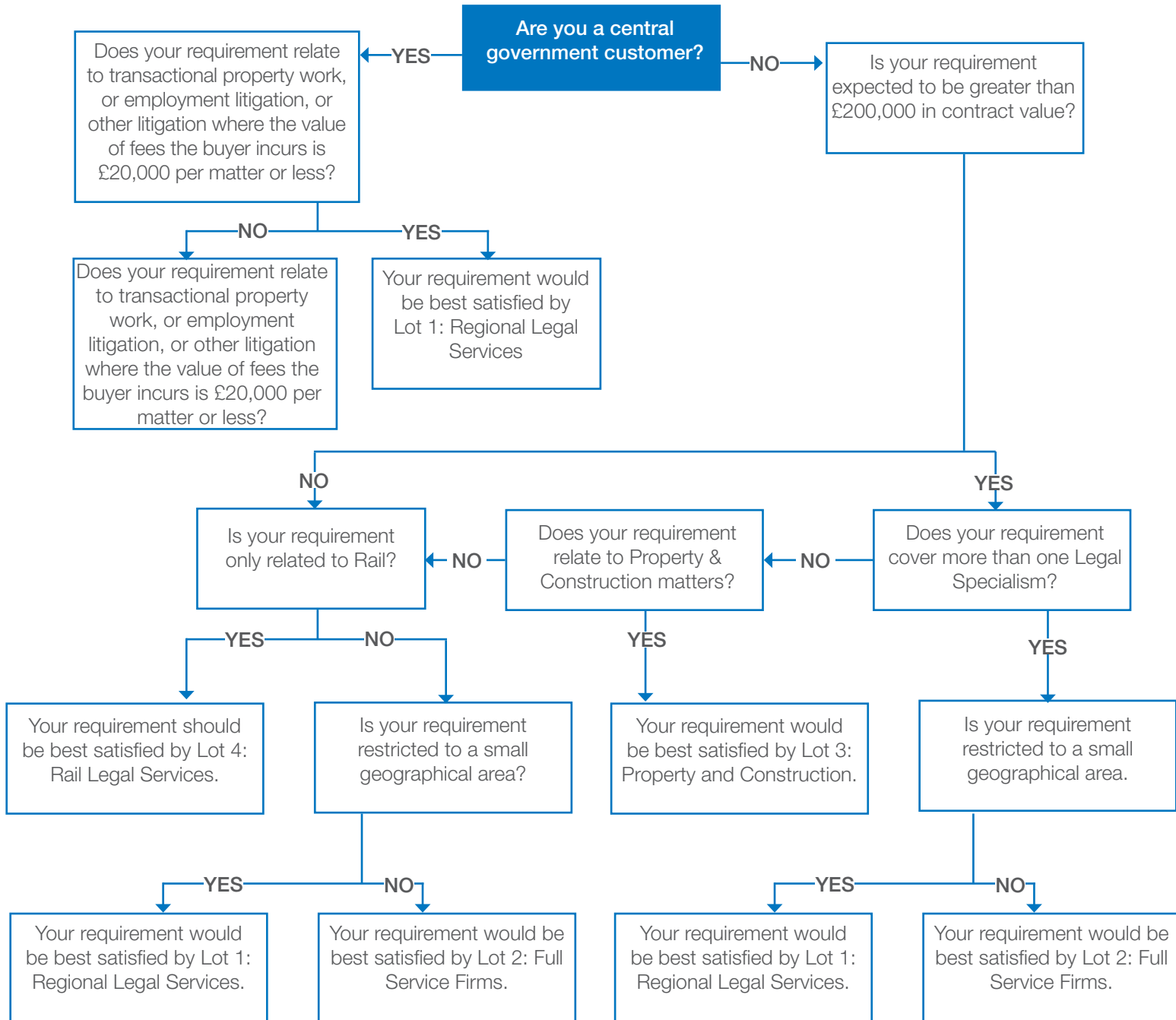
- Intellectual property
- Litigation and dispute resolution
- Outsourcing / insourcing
- Partnerships
- Pensions
- Public procurement
- Property, real estate & construction
- Tax

Optional Specialisms:

- EU
- Planning
- Projects
- Restructuring and insolvency
- Education law
- Child law
- Energy and natural resources
- Food, rural and environmental affairs
- Franchise law
- Health and healthcare
- Life sciences
- Telecommunications
- The law of international trade, investment and regulation
- Public international law
- Charities law
- Health & safety law
- Licensing law
- Transport law (excluding rail)

Decision tree

The following flow chart has been designed to help customers determine the most appropriate route to market for their legal services requirements.



Value added benefits

The following free additional services are available part of a call-off contract

- **Know-how** – Suppliers will make available to you, on request and at no charge, know-how (including printed publications, e-briefings, webinars and invitations to briefings, seminars and events), as well as any legal resource available to the supplier.
- **Knowledge transfer** – Suppliers will facilitate a knowledge transfer at the end of each contract, including the preparation and supply of document bibles.
- **Free legal advice** – At the outset of a contract the supplier will provide 2 hours legal advice, free of charge for each contracted requirement.
- **Travel costs** – Suppliers will provide all travel costs, travel time and fee earner subsistence at no cost, unless expressly agreed within your contract.
- **Document production/photocopying** – Suppliers will provide all document services free of charge.
- **Meeting rooms** – Suppliers will make available serviced meeting rooms with refreshments, as well as maintaining internet, telephone and video conferencing facilities, during your contract with them.
- **Data storage** – Suppliers will provide all virtual and physical storage, as well as “data rooms” as requested by you.
- **Matter management** – Supplier will have in place a matter management system and provide matter management free of charge.



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Things to consider

Stakeholder engagement

When establishing requirements you should engage early with internal colleagues including procurement, finance and legal to draw on their knowledge and experience and gain their buy-in.

Business case

Before procuring external legal support an internal business case is usually required to demonstrate the need. It should be a well-structured document that supports the specific business need. A compelling business case should adequately capture the quantifiable and non-quantifiable characteristics of the proposed project.

Large, complex or high profile projects often require a comprehensive and highly structured business case. For other projects the business case may be brief and informal. Information included in a formal business case could include an overview of your organisation, project background, options considered including do nothing (risks / costs / lost opportunities of doing nothing), expected business benefits, expected costs and anticipated risks. Customers should additionally refer to their own departmental policies and guidance in order to ensure compliance with their own departmental rules.

Project management

Developing a robust project management process may assist you in securing your legal services requirements on time and within budget via the panel.

Templates are available to assist in the development of a project team and process. These are available in the guidance and template document.

Evaluators

You should nominate suitable evaluators to assess the quality questions within the award questionnaire and pricing schedule. This is key to the success of the procurement and you should give careful consideration to any specific skills that are required. You must ensure that there are no conflicts of interest and the evaluators have the relevant experience. Where a conflict of interest exists or evaluators do not have the relevant experience they will not be able to evaluate. During evaluation the evaluators need to ensure responses / comments are concise and accurately recorded for audit purposes. We would encourage evaluators to contribute to the drafting of the specification. It is also important to ensure evaluators are available within required time frame. It is advisable to have backup evaluators to avoid unnecessary delays.

Legal advice

You may wish to seek your own legal advice when deciding on the type of award procedure, drafting the tender documentation, call-off contract, pricing schedule and award questions. CCS is not allowed to provide any legal advice.

Supplier engagement

Early engagement with suppliers before you issue your tender documents may assist in the development of a more focused specification. A key principle of public sector procurement is that all suppliers are treated in a fair and equitable manner. Here are some hints and tips:

- Make all suppliers aware of the opportunity at the earliest convenience and include proposed/indicative timescales if known. This could be face to face (all supplier conference), webinars or via tele-conference.
- The use of Expressions of Interest (EOI) is highly recommended to enable you to engage with suppliers and reduce your shortlist of firms to invite to tender.
- If sharing sensitive information with suppliers regarding your requirement, you may wish to have suppliers sign a non-disclosure agreement (NDA).
- If you require market intelligence or have a specific question for which you require supplier input you may wish to issue a Request for Information (RFI). This should be sent to all the suppliers you intend to invite to tender. Use of an eSourcing portal will provide an audit trail. You can use the CCS eSourcing tool, your own eSourcing tool or a manual process; the customer is free to choose their preference.

Each supplier is required to provide and maintain a prospectus for customers to review. These prospectuses should be used to enable you to select suitable suppliers for your tender/award and can be accessed via clicking this [link](#).

- Share your draft documents (including your specification) with all suppliers to receive feedback.

Whilst the feedback may be used to help shape your requirement, you need to ensure that you retain control of your requirements and that they are not overly influenced by individual suppliers, nor do they provide an unfair advantage.

Specification (statement of requirements)

A specification is a statement of the requirements to be met by the supplier and forms a fundamental part of a successful process. A clearly written specification is an invaluable tool which will help you get the right result for your organisation.

If you are running a further competition, any quality questions within the tender documents should be linked directly to your specification to ensure the questions you ask, and the suppliers responses, are relevant to the specific requirement.

e.g. what do you want to achieve from the suppliers and how will you know that the requirement has been satisfied?

Purpose of a specification

- Clearly describes the services required and which the supplier is expected to provide
- Create a contractual tool which forms an integral part of the legal services contract
- Form part of a legally binding agreement which will be binding on both parties
- Inform suppliers about the services required and enables them to propose a solution
- Facilitate effective contract management
- Act as a reference to be referred to in the case of any disputes between you and the supplier(s)
- Key performance indicators (KPIs) should be established as appropriate to the requirement.

Legal services contract order form

You will need to review all of the highlighted sections in the legal services contract order form and populate all necessary sections, paying particular attention to the following:

- **Limits of liability** - 7.1 of the contract order form
- **Insurance** - 7.2 of the contract order form
- **Fee mechanisms and charges** - Section 2 of the Template Order Form

Base location

You need to specify your base location in the tender.

The base location is the place where the majority of the work will be carried out. Travel and subsistence disbursements are not payable to the supplier unless expressly agreed within the contract order form.

Award procedure

Further competition is the default route to market, under this panel.

See schedule 5 of the panel agreement for the detailed further competition process.

The first step in a successful call-off contract is to establish exactly what service you require from a supplier, and to communicate that requirement clearly in the form of a specification, or statement of requirement.

Choosing your award mechanism

The following table provides summary guidance to support your decision and justification for when a direct award or further competition may be the most appropriate route to market. The conditions are not mandated, but contain some guidance to aid to your decision making processes.

Consideration	Guidance	
	Direct award	Further competition
Contract value	The anticipated gross contract value is less than £200,000.	The anticipated gross contract value is greater than £200,000.
Timescales	Urgent requirements where the delays caused by the competition process would be detrimental to the outcome.	All non-urgent requirements where the competition process would not be detrimental to the outcome.
Previous experience	A panel firm has previously worked on your project and: a) it would be detrimental to project delivery if the same panel firm did not complete the work; and/or b) it is certain that greater savings and/or the best outcome can be achieved by re-instructing the same panel firm.	Suitable for new work or where previous work performed by a panel firm is not certain to achieve additional savings and is not fundamental to the outcome.
Capacity	Expression of Interest (EOI)/Request for Information (RFI)/Supplier Engagement has identified that only one suitable panel firm has the capacity to deliver the service requirements.	EOI/RFI/Supplier engagement has identified that multiple panel firms are able to deliver the service requirements.
Capability	EOI/RFI/Prospectus review has identified that only one panel firm has the expertise to deliver the service requirements.	EOI/RFI/Prospectus review has identified that multiple panel firms have the expertise to deliver the service requirements.
Conflicts of interest	Identification of conflicts of interest via internal procedures or responses to EOI/RFI mean that only one panel firm can deliver the service requirements.	Identification of conflicts of interest via internal procedures or responses to EOI/RFI mean that multiple panel firms can deliver the service requirements.
Region (lot 1 only)	Award support tool has identified that only one panel firm can deliver the relevant services in the required region(s).	Award support tool has identified that more than one panel firm can deliver the relevant services in the required region(s).

Legal services contract order form

- Develop a robust specification
- Identify the most appropriate route to market
- Identify the most appropriate lot and suppliers using the supplier prospectuses (lots 2, 3 and 4) or award support tool (lot 1)
- Invite tenders by conducting a further competition
 - For lots 2 to 4, invite a minimum of three suppliers from specified lot.
 - For lot 1, use the digital award support tool and shortlist a minimum of 10 suppliers, unless 10 are not available for that service in that region.
- Set a time limit for the receipt of tenders which takes into account factors such as the complexity of the subject matter of the proposed call-off contract and the time needed to submit tenders
- Keep each tender submitted confidential until the deadline for tender returns has expired
- Evaluate the tenders against the award criteria detailed in the tender

Supplier responsibilities

The supplier will confirm that either they will respond to the tender or decline to tender for the services. If they are not submitting a tender, the supplier should inform the customer as to the reason(s) why.

Prices will not exceed the panel rates as set out in schedule 3 (panel prices and charging structure) and as detailed in the tender.

The response from the supplier will remain valid for 90 working days unless otherwise advised.

Direct award

It is best practice to obtain your own in-house legal advice to ensure direct award is a compliant approach in your specific circumstances.

Considerations to be made when deciding whether to direct award should include the urgency of your requirements, the complexity of your requirement, the value of the contract, the cost of running a further competition (for both you and the suppliers) and whether the move from your existing supplier (if on the panel) would jeopardise the quality of service, outcomes or costs.

Once you have identified direct award as the most suitable mechanism to meet your requirements, you should review the supplier prospectuses to identify the most suitable supplier and approach them directly to ensure that they have the capacity to fulfil the contract.

Contracts awarded via direct award under this panel can form any duration up to and including the limits applied by the panel agreement (i.e. the contract must end no longer than 2 years following the expiry of the panel agreement).

There is no opportunity to reduce the rates under a direct award and therefore any award must be based on the panel maximum rates, or if appropriate, alternative fee arrangement. Customers are encouraged to select an appropriate pricing mechanism to drive best value from their procurement.

Quality award questions

You need to develop questions which will allow you to assess a supplier's ability to meet your requirements. Whilst there is flexibility in what suppliers can be asked in terms of award questions, you should ensure they are in line with your requirements, are forward looking and within the scope of the panel agreement specification.

Pricing mechanism

Maximum rates

The panel contains maximum hourly, daily and monthly rates based on an eight hour working day and 20 day working month.

Alternative fee arrangements are possible (fixed fee and capped fee etc), but any contracts awarded via direct award must have arrangements based on these maximum rates. Discounted rates cannot be requested under a Direct award.

Suppliers are able to reduce these maximum rates during a further competition.

Public sector bodies can view the maximum rates following registration onto the CCS eSourcing Suite.

Pricing models

You need to develop a pricing model to reflect your requirements and can select a pricing model from a number of options (a selection of which are below).

- Time and materials
- Fixed fee
- Capped fee

If you can clearly define your requirements and have a simple pricing model you may wish to consider the use of an eAuction. For further information please speak to our eAuction team (eauctions@crownccommercial.gov.uk or **0345 410 2222**).

Quality / price weightings

You need to evaluate supplier responses using the most economically advantageous tender (MEAT) criteria.

You can define the sub-criteria, including weightings as part of the further competition process. You may wish to speak with your commercial/procurement team for further advice.

eSourcing tool

We provide free access to our eSourcing tool which enables you to conduct a further competition and provides a fully auditable procurement process. If you wish to use your own internal eSourcing tool you are able to do so.

Legal services contract period

You will need to determine the length of your legal services contract and the period of any extensions or options you may wish to apply. Our recommendation is that a legal services contract should be no longer than four years. All contracts must include a contract end date that cannot fall later than 2 years following the expiry of this panel.

Clarification period (supplier questions)

When planning the tender period you should ensure that you allow sufficient time for suppliers to ask questions and for you to respond to those questions. Set realistic deadlines for questions and answers.

Once you have issued your final response to the clarification questions allow sufficient time for suppliers to consider your responses before they submit their bid.

Remember to respond to all bidders with the same information and to anonymise the clarification log.



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Tender

Below is a list of documents you may wish to consider when formulating your tender:

- Invitation to tender
- Terms of participation
- Specification (statement of requirements)
- Contract order form
- Response guidance (award questionnaire)
- Pricing schedule
- Non-disclosure agreement (if applicable).

Timescales

Set a time limit for the receipt of tenders which takes into account factors such as the complexity of the subject matter, time needed to submit tenders and resource availability.

A minimum of 10 working days should be allowed for a simple requirement and greater for more complex requirements. It should be noted that failure to give suppliers appropriate time to bid may result in a risk of poor tender quality and reduced chance of maximum savings. Customers are encouraged to plan their requirements appropriately in order to receive maximum benefit and value from any competitive exercise.

Evaluation

Once tenders have been received a compliance check should be undertaken before evaluation begins to ensure that:

- The bid submitted is from the same supplier that is awarded to the panel agreement (supplier matrix)
- Suppliers have confirmed acceptance of the panel and contract order form terms and conditions - should a supplier propose any changes to the terms and conditions please notify CCS of the non-compliance
- Mandatory questions are answered
- All documentation is completed and attached as requested in the tender
- Supplier(s) are notified as detailed in your tender document if they have failed the compliance check and that their bid will not be further considered in the procurement
- A compliance check of the pricing matrix is undertaken to establish that there are no missing prices and it has been completed in line with the guidance
- The panel maximum rates have not been exceeded. Should a supplier propose a rate higher than the panel maximum rates, please notify CCS immediately.

Price evaluation and abnormally low tenders

You should evaluate price as defined in the tender.

Where a tender appears to be abnormally low in relation to the requirement you should seek an explanation of the price / costs in the proposed tender from the supplier and then assess the information provided. If the evidence provided does not provide a satisfactory explanation then you may be able to reject the tender. Legal advice should be sought prior to rejection.

Post tender clarification / negotiation

Under the EU regulations you are not permitted to undertake post tender negotiation.

Post tender clarifications may be necessary during the evaluation of tenders where there are aspects of the bids which are unclear or contain minor errors. Where post tender clarification is undertaken this needs to be transparent and auditable.

You will need to liaise with your commercial team / legal advisors for further advice.

Quality evaluation

The quality evaluation process must be managed and conducted as detailed in the tender.

Where you have elected to undertake individual scoring by evaluators it is advised that you should undertake a consensus meeting, which will provide a consensus following a robust conversation on the bids. This will include discussion on any anomalies and resolution of any opposing views. This will also ensure that the appropriate response guidance and evaluation rationale has been used. Detailed records should be maintained.

Evaluation report

Once the evaluation has been completed and the successful supplier(s) identified, you should create an evaluation report and obtain appropriate approval and sign-off before the award of the contract.



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Contract award

Intention to award

Whilst not a mandatory legal requirement under this panel, if you elect to include a voluntary standstill period (10 calendar days) when you develop your tender then you will need to issue intention to award letters to all suppliers. For further advice please speak to your commercial team / legal advisors.

Award letters (letters to bidders)

After the standstill period expires (if one was used) or at time of award, you need to issue letters to all suppliers informing them of the procurement outcome. You should provide feedback to all suppliers on their bids, which as a minimum should include the scores and commentary against the full evaluation criteria supporting the procurement.

Legal services contract order form

You should populate the Schedule 4 order form and terms and conditions document with information taken from the successful supplier(s) tender (further competition) or response to the statement of requirements (direct award) which shall include (as a minimum):

- Contract start date
- Contract end date
- Potential extension period or Options
- Pricing (maximum rates apply for direct award)
- Benefits

All parties to the legal services contract should sign the order form and terms and conditions document.

Contracts Finder

Where a public contract (in excess of £10,000) is awarded, within 90 days of contract award, you will need to publish on [Contracts Finder](#). at least the following information:

- name of the supplier
- date on which the contract was entered into
- value of the contract
- whether the contractor is a SME or VCSE
- Redacted contract documents



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Contract management and exit

Following award of a contract it is important that you have in place a robust contract management process in line with your requirements as detailed in your tender. This should be used to ensure that suppliers work to the original brief.

Central government departments should follow the principles of strategic supplier relationship management issued by the Government Commercial Organisation.

Throughout the duration of your contract, you need to ensure you are invoiced correctly. This should include checking the number of hours and days worked by supplier personnel and that the agreed prices have not been exceeded; to be in line with your agreed contract.

Ensure the right resource mix of personnel i.e. you do not have too many partners or junior staff.

For fixed and contingent pricing models you will need to ensure that payment is not released until the agreed milestones have been achieved.

Review supplier performance

It is important to hold regular contract management meetings where appropriate with the supplier to ensure both parties understand their responsibilities and that they are fulfilled in accordance with the contract.

Progress against required delivery should be monitored and any issues preventing the requirements from being delivered should be identified to the appropriate person (e.g. contracts manager) in a prompt manner.

Once the contract is live, you should schedule the contract management meetings and set a standard meeting agenda. In the meetings, you should discuss the following, as appropriate:

- Progress against the contract requirements including the implementation plan
- Adherence to the specification, the service-level agreement (the standards of service you have agreed with your supplier) and any key performance indicators (how you measure the performance of that service)
- Acknowledging where the supplier has performed to the required standard
- Identifying areas of concern as early as possible and what the supplier will do about them
- Reviewing joint risks and issues logs
- Review management information
- Benchmarking and continuous improvement
- New service / product developments

You should minute the meeting and include any agreed actions and timescales. The minutes should be circulated promptly after the meeting.

Contract variation

You may need to vary the contract; to do this you will need to follow the variation process as detailed in the contract order form. You may wish to speak with your commercial or procurement team for further advice.

Sharing best practice

You should provide details of best practice with CCS so that it can be shared across the public sector.

Knowledge transfer

Knowledge transfer should be built into any contract to ensure that future reliance on external suppliers is minimised and the building of internal capability is maximised.

Exiting the contract

You should start preparing for the end of the contract in advance of the expiry date. You may need to consider how you will:

- Ensure the transfer of any data from the supplier to your organisation
- End any joint arrangements with suppliers
- Collect passes from suppliers (if applicable)
- Return suppliers' equipment (if applicable)
- Remove or dispose of any unwanted items

You may wish to consider holding a lessons learned meeting to explore what went well and what did not go so well so learning can be incorporated into future contracts.

If you need to end the contract early, you should follow the exit process detailed in the legal services contract.



Further information

If you require any help with this guidance please contact

info@crowcommercial.gov.uk

0345 410 2222

You can also learn more about what we offer online:

www.crowcommercial.gov.uk

[@gov_procurement](https://twitter.com/gov_procurement)

[Crown Commercial Service](#)