



Pre-Qualification Questionnaire (PQQ)

For

Legal Panel Framework SE678

Pre-Qualification Questionnaire

This Pre-Qualification Questionnaire (PQQ) relates to the selection stage of the procurement for the supply of Legal Services as advertised in OJEU in accordance with the Public Contracts Regulations 2015. The Invitation to Tender (ITT) documentation that has accompanied the PQQ is **for information only**. It should not be completed. The ITT for completion will be sent to those bidders that are selected to tender following this PQQ stage.

The Collaborators

The Collaborators to this procurement are providers of general support and funding to over 300 sport and recreation bodies across the UK.

Sport England

We're striving for an active nation where everyone can take part in sport or activity, regardless of age, background or ability.

That might be through traditional team sports like rugby and netball. But it could just as easily be a gym workout or going for a run. Being active is a key part of maintaining physical and mental wellbeing. And it also benefits local communities through economic and social regeneration.

As well as supporting people who already enjoy regular sport, we're also fighting to get people who are less active exercising more regularly. Groups that are traditionally less active – disabled people, some ethnic groups, women and parts of the LGBTQ community – are a core focus of our work.

We also support talented athletes who show elite potential in their chosen sport, and our ambition is to open up these opportunities to people from all background.

As a government body, we also invest in and provide expertise in creating superb sporting facilities across the nation.

Find out more at www.sportengland.org

Sport and Recreation Alliance

The Sport and Recreation Alliance is the national alliance of governing and representative bodies of sport and recreation in the UK. The 320 members of the Sport and Recreation Alliance represent 150,000 clubs across the country and some 8 million regular participants. The Sport and Recreation Alliance exists to promote the role of sport and recreation in healthy and active lifestyles, to encourage a policy and regulatory environment in which sport from grassroots through to elite level can flourish, and to provide high quality services to help its members continually improve and progress. Additional information can be found at www.sportandrecreation.org.uk.

Sport Northern Ireland

Sport Northern Ireland is a leading public body for the development of sport in Northern Ireland, and an Arm's Length Body of the Department for Communities (DfC).

Our Vision is: Northern Ireland: renowned as a place where people enjoy, engage, and excel in sport. This Vision is supported by the following Mission Statement and Strategic Objectives:

Mission Statement: To lead sports development at all levels producing more participants and more winners.

Strategic Objectives

- Objective 1 - Sporting Communities - To increase and support the number of people adopting and sustaining a sporting lifestyle.
- Objective 2 - Sporting Clubs - To enable more people to develop and reach their sporting goals through a structured environment.
- Objective 3 - Sporting Winners - To help more Northern Ireland athletes win at the highest level.

Sport Wales

Sport Wales was established by Royal Charter dated 4 February 1972, with the objectives of "fostering the knowledge and practice of sport and physical recreation among the public at large in Wales and the provision of facilities thereto". Sport Wales is the national organisation responsible for developing and promoting sport and physical activity in Wales. Sport Wales is the main adviser to the Welsh Government on sporting matters and responsible for distributing National Lottery funds to both elite and grassroots sport in Wales. Additional information about Sport Wales can be found at www.sportwales.org.uk.

UK Sport

UK Sport is a body incorporated by Royal Charter in 1996 and is a non-departmental public body sponsored by the Department of Culture, Media and Sport. UK Sport is responsible for the investment of Exchequer and National Lottery funding into Olympic and Paralympic sports and athletes and bidding and hosting major sporting events in the United Kingdom. UK Sport also assists National Governing Bodies build positive working relationships with their international federations and other international bodies and also works in international sport development programmes worldwide. Additional information about UK Sport can be found at www.ukssport.gov.uk.

Participating Bodies

Participating Bodies to this framework include a wide range of organisations that are funded and/or supported by the Collaborators.

These include National Governing Bodies (NGB) which are organisations that govern and administer sport on a national basis, whether that is for the whole of the United Kingdom, (i.e. England, Northern Ireland, Scotland and Wales), for Great Britain (i.e. England, Scotland and Wales) or for one of the Home Countries. An NGB operating in Northern Ireland may operate on an All-Ireland or Ulster Provincial basis. Traditionally NGBs are described as the custodians and guardians of their sport.

Other eligible organisations include national partners such as SportsAid, English Federation of Disability Sport, and sport and recreation organisations.

For a full list of the organisation who are able to use the Framework can be found in the Memorandum of Information attachment.

The Requirement

The Collaborators, on behalf of the Participating Bodies, are tendering for the supply of Legal Services that will complement the 19 areas of law set out below although the Services shall not be limited to these areas. The Collaborators are seeking through this tendering process to set up a supply framework with a panel of up to 10 (ten) suitably capable Contractors to provide these services for an initial term of 36 months and a unilateral option to extend for further periods up to a maximum of 12 months.

The Collaborators have identified through their own experience that sport and recreation organisations have raised legal issues with the Collaborators seeking legal advice or guidance in sourcing legal services from firms. On sharing these experiences, the Collaborators have identified this is due to both a lack of internal resource and finances. There is a need to assist in sport and recreation bodies that are either supported or funded by the Collaborators in accessing legal services.

The following Lots are available:

- Lot 1 – General England & Wales
- Lot 2 – General Northern Ireland Only

The Collaborators, shall actively manage the resulting Framework Agreements, key activities including: annual contract review meetings; KPI management and analysis of management information provided, facilitating feedback from the Participating Bodies and Providers, dealing with complaints outside of the solicitor/client relationship/the Solicitors Regulatory Authority Code of Conduct, and sanctioning poor performance from Providers.

Participating Bodies will retain the right to, from time to time, obtain legal advice from alternative advisers where in their view the particular advice sought is not within the appointed supplier's area of expertise or would otherwise be more appropriately provided by an alternative advisor. Further, the Collaborators make no promises or guarantees with respect to the level of work that will be provided to the successful suppliers.

It is intended that up to 10 Candidates per lot are selected to tender following this selection stage.

The nature of the work in this framework is such that it will require external legal advisors to provide advice to the Participating Bodies mainly in relation to the areas set out in the requirements below.

The Collaborators wish to establish this Framework for the use by and benefit of the Participating Bodies funded or supported by the Collaborators across the UK. The Collaborators have identified the following areas out of which Bidders should be capable of providing ongoing advice, compliance, representation and support, including but not limited to 50% of the areas of law identified which surround the activities of the Participating Bodies.

Administrative and Public Law

- Judicial Review

Bidding & Staging Major Events (International)

- Bidding, compilation of bid documents;
- Staging, host/event Agreements;
- Delivery structure
- Relationship with partners/public authorities/venue owners;
- Brand Protection
- Broadcasting
- Rights clearances
- Sponsorship/commercial programmes, ticketing

Charity & Trust Law (including CASC registration)

- Charity law, including fiscal and other benefits, statutory controls
- Trusts – powers and responsibilities of Trustees

Child Protection/Vulnerable Groups

- DSB Disclosure/ISA Registration
- Safeguarding
- Policies and Procedures
- Disciplinary Action/Investigations

Contract/Grant Agreements

- General and specialist contracts advice on contract terms
- General and specialist advice on the terms of funding agreements, grant award offers, and grant contract documentation,
- Providing advice on and drafting standard form contracts
- Advice on compliance with grant agreements

Corporate Law/Governance/Constitutional Affairs

- Advice on the constitutional structures and powers,
- Corporate structures and powers of companies limited by shares and guarantee, including directors responsibilities,
- Constitutional issues relating to the powers and controls on organisations and its subsidiaries

Commercial

- Sponsorship/Marketing rights

- Licensing/merchandising
- Endorsement/image/media rights
- Online content exploitation

Data Protection/Privacy

- Handling personal data, policies and procedures
- Use of electronic communications
- Employee monitoring

Employment Law

- Conditions of employment, redundancy, TUPE, and other legislative requirements
- Recruitment practices generally
- Other miscellaneous contracts of employment (including issues with volunteers)
- Performance bonus schemes
- Work place disciplinary/investigations and Employment Tribunals
- Obligations under equal opportunities legislation

Equality and Disability Law

- Participation in and accessibility to sports and recreation competitions and events
- Employee disputes
- Compliance with Equality Act 2010
- Section 75 of the Northern Ireland Act 1998 (Lot 2 only)

EU Sports Policy/Law (Competition Law)

- EU regulation in sport
- Competition law - impact on sport rules and regulations

Insolvency Law

- Rescue/Failure
- Process of winding up
- Powers of receivers, liquidators etc
- Liabilities arising from insolvency

Intellectual Property Law

- Creation/acquisition/exploitation
- Advice on patents, trademarks, copyright, database rights, design rights, know-how and related agreements
- Portfolio management

Immigration Law

- Citizenship
- Eligibility to work in UK
- Sponsoring employees/contractors from abroad
- UK Board Agency application process

Litigation/Dispute Resolution

- Advice and, if necessary, the conduct of legal proceedings relating to claims made by or against sport and recreation bodies in relation to any of its activities
- Regulatory action (i.e. Information Commissioner's Office)
- Contract/funding disputes
- Advocacy

New Media/IT/Broadcasting

- IT infrastructure agreements/security/outsourcing/business continuity
- Digital content and distribution
- Website development/social networking/streaming content
- Software development/maintenance

Property, Planning and Construction Law

- Issues relating to ownership, occupation, licences, leases, sub-leases and security of tenure the interpretation of existing documents and the negotiation of new leases
- Leases, licences, freehold transfer and tenure
- Issues relating to mortgages, charges and security for loans generally
- Advice on planning legislation affecting sport, especially s106 obligations
- Building and construction law and collateral warranties

Publishing/Media Law

- Press complaints
- Defamation
- Privacy
- Publications/advertising

Regulation / Disciplinary (incl anti-doping, anti-corruption, integrity, etc)

- Disciplinary action/investigations
- Appeal hearings/advocacy
- Interpreting and amending Rules & Regulations
- Selection/qualification advice/disputes

Please note: The services do not extend to sport and recreation bodies in Scotland however firms may on occasion be instructed on matters covering the laws and jurisdiction of Scotland.

Guide to Applicants

Communication

1. On behalf of the Collaborators, Sport England are acting as the lead in this procurement. The person responsible for this procurement and their contact details are:

Named Procurement Officer	Joe Stevens, Head of Procurement, Sport England
Telephone Number	020 1273 1924
Contact e-mail address	joe.stevens@sportengland.org
Postal address	21 Bloomsbury Street, London WC1B 3HF

2. All communications should, in the first instance, be transmitted through the [Sport England eSourcing Portal](#). Direct or indirect canvassing of any Collaborator employee by any potential bidder concerning this requirement, or any attempt to procure information from any Collaborator employee concerning this PQQ may result in the disqualification of the Potential Provider from consideration for this requirement.

Using the Sport England eSourcing Portal

3. Bidders must complete, upload and submit their PQQ using the [Sport England eSourcing Portal](#).
4. Please answer every question as requested and in accordance with the guidance notes and information provided.
5. Questions marked as mandatory must be answered. Failure to answer mandatory questions will prevent the bidder from submitting their response.

6. No other documents, appendices or information (including policies or general marketing literature) should be submitted with the Tender, other than those specifically requested. Any such information will not be considered.
7. Suppliers must complete their PQQ responses on the [Sport England eSourcing Portal](#) no later than **12:00 on 12 September 2016**. Responses received after that time may not be accepted.
8. For assistance with the portal please contact our eSourcing Helpdesk on the below information:
 - Phone: 0800 368 4850
 - E-mail: help@bravosolution.co.uk

Clarification Questions

9. The deadline for submission of clarification questions via the [Sport England eSourcing Portal](#) is **12:00 on 5th September 2016**.
10. Where Collaborators consider any question or request for clarification to be of material significance it may communicate both the query and the response, in a suitably anonymous form, to all interested parties.
11. If a Candidate does not wish for a query or response to be disclosed to other Candidates it must communicate this and detailing the reason why with the query. Collaborators will consider the request but reserve the right to disclose the query and/or the response to other Candidates.

Procurement Timetable

12. Set out below is the proposed procurement timetable. This is intended as a guide and, whilst Collaborators do not intend to depart from the timetable, they reserve the right to do so at any time.

Target Date	Activity
11 th August 2016	PQQ Published
5 th September 2016	Deadline for clarification questions at 12:00 hours
12 th September 2016	Deadline for receipt of PQQ responses at 12:00 hours
23 rd September 2016	Evaluation of PQQs completed
26 th September 2016	Feedback to applicants
26 th September 2016	Short listed Candidates sent tender documents
21 st October 2016	Deadline for receipt of tenders
14 th November 2016	Estimated Contract awarded

Evaluation of PQQ

13. Responses to the PQQ will be evaluated in accordance with the procedures set out in this document. In the event that none of the responses are deemed satisfactory, the Collaborators reserve the right to consider alternative procurement options.
14. On receipt of the returned PQQ's, each PQQ will be checked for completeness and compliance with the instructions set out above. Thereafter, each PQQ will be evaluated in accordance with the scoring and weightings set out in this section.
15. The PQQ will be scored in accordance with the below:

Section	Title	Scoring/Weighting
1	Supplier Information	For Information Only
2	Grounds for Mandatory Exclusion	Pass/Fail
3	Grounds for Discretionary Exclusion	Pass/Fail
4	Economic and Financial Standing	Pass/Fail
5	Relevant Experience	Minimum score of 50%
6	Technical and Professional Ability	Minimum score of 75%
7	Insurance	Pass/Fail
8	Compliance with Equality Legislation	Pass/Fail
9	Environmental Management	Pass/Fail
10	Health and Safety	Pass/Fail
11	Declaration	Not Evaluated

Evaluation of Pass / Fail Sections

16. A fail for any of the pass/fail section will result in a failure for the whole of the PQQ. Further information and guidance on the criteria constituting a pass or fail and the evidence requirements for each section is provided in the instructions within the PQQ response template. Please read all information carefully and follow all instructions.

Evaluation of the Scored Sections

17. In accordance with the Scoring Matrix outlined below, failure to provide an adequate response to any of the questions may result in the Collaborators not proceeding further with the Participant in question. The Collaborators may seek independent financial and market advice to validate information declared or to assist in the evaluation of responses to this PQQ.

18. Scoring is assessed using the point scale and criteria in the following table unless otherwise stated:

Assessment	Score	Interpretation
Excellent	100%	Fully meets the requirement(s) demonstrating relevant experience of all of the requirement(s) to an acceptable standard and demonstrates deliverable added value.
Acceptable	70%	Demonstrates relevant experience of all of the requirement(s) to an acceptable standard
Minor Reservations	50%	Minor reservations of ability to demonstrate relevant experience of all of the requirement(s) to an acceptable standard
Major Reservations	20%	Major reservations of ability to demonstrate relevant experience of all of the requirement(s) to an acceptable standard.
Unacceptable	0%	Does not demonstrate relevant experience of any of the requirement(s) to an acceptable standard and/or insufficient information provided by the potential provider.

19. Each member of the evaluation team will allocate a score. The scores will then be subjected to a moderation process to reach a final score for each organisation.]

20. The scoring weightings for each question in the Technical and Professional Ability Section are shown below:

Question Number	Question	Word Count	Weighting %
6.1	Solicitors Regulation Authority	n/a	Pass/Fail
6.2	Legal Services Provision	1000	35%
6.3	Value for Money	800	20%
6.4	Understanding Client Needs	1000	30%
6.5	Staffing and Resources	1000	15%
Total		3800	100%

21.A shortlist of the highest ranked candidates in this section that passed the minimum scores for section 5 and 6 will be subsequently invited to participate in the tender stage.

Notes for completion

General Instructions

- 22.“Collaborator” means Sport England (SE), The Sport and Recreation Alliance (SRA), Sport Northern Ireland (SNI), Sport Wales (SW) and UK Sport (UKS) that are seeking to invite suitable Suppliers to participate in this procurement process.
- 23.“Participating Body / Bodies” means the bodies who will be entitled to enter into call off arrangements under this Framework Agreement.
- 24.“You”/ “Your” or “Supplier” or “Bidder” means the body completing these questions **i.e. the legal entity seeking to be invited to the next stage of the procurement process and responsible for the information provided.** The ‘Supplier’ is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 and could be a registered company; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
- 25.This Pre-Qualification Questionnaire (PQQ) has been designed to assess the suitability of a Supplier to deliver the contract requirement(s). If you are successful at this stage of the procurement process, you will be selected for the subsequent award stage of the process.
- 26.Please ensure that all questions are completed in full, and in the format requested. Text based information should be in 12 point, Arial font. This is to comply with the Disability Discrimination Act 1995. Failure to do so may result in your submission being disqualified. If the question does not apply to you, please state clearly ‘N/A’.
- 27.Should you need to provide additional Appendices in response to the questions, these should be numbered clearly and listed as part of your declaration. A template for providing additional information is provided at the end of this document.
- 28.No information contained in this PQQ, or in any communication made between Collaborators and any Potential Provider in connection with this PQQ, shall be relied upon as constituting a contract, agreement or representation that any contract shall be offered in accordance with this PQQ. Collaborators reserve the right, subject to the appropriate procurement regulations, to change without notice the basis of, or the procedures for, the competitive tendering process or to terminate the process at any time. Under no circumstances shall Collaborators incur any liability in respect of this PQQ or any supporting documentation.
- 29.Collaborators will not reimburse any costs incurred by Potential Providers in connection with preparation and submission of their responses to this PQQ.

Verification of Information Provided

- 30.Whilst reserving the right to request information at any time throughout the procurement process, Collaborators may enable the Supplier to self-certify that there are no mandatory/ discretionary grounds for excluding their organisation. When requesting evidence that the Supplier can meet the specified requirements (such as the questions in section 6 of this PQQ relating to Technical and Professional Ability) Collaborators may only obtain such evidence after the final tender evaluation decision i.e. from the winning Supplier only.

Sub-contracting arrangements

31. Where the Supplier proposes to use one or more sub-contractors to deliver some or all of the contract requirements, a separate Appendix should be used to provide details of the proposed bidding model that includes members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.
32. The Collaborators recognise that arrangements in relation to sub-contracting may be subject to future change, and may not be finalised until a later date. However, Suppliers should be aware that where information provided to Collaborators indicate that sub-contractors are to play a significant role in delivering key contract requirements, any changes to those sub-contracting arrangements may affect the ability of the Supplier to proceed with the procurement process or to provide the supplies and/or services required. Suppliers should therefore notify Collaborators immediately of any change in the proposed sub-contractor arrangements. Collaborators reserve the right to deselect the Supplier prior to any award of contract, based on an assessment of the updated information.

Consortia arrangements

33. If the Supplier completing this PQQ is doing so as part of a proposed consortium, the following information must be provided;
- names of all consortium members;
 - the lead member of the consortium who will be contractually responsible for delivery of the contract (if a separate legal entity is not being created); and
 - if the consortium is not proposing to form a legal entity, full details of proposed arrangements within a separate Appendix.
34. Please note that Collaborators may require the consortium to assume a specific legal form if awarded the contract, to the extent that a specific legal form is deemed by Collaborators as being necessary for the satisfactory performance of the contract.
35. All members of the consortium will be required to provide the information required in all sections of the PQQ as part of a single composite response to Collaborators i.e. each member of the consortium is required to complete the form.
36. Where you are proposing to create a separate legal entity, such as a Special Purpose Vehicle (SPV), you should provide details of the actual or proposed percentage shareholding of the constituent members within the new legal entity in a separate Appendix.
37. Collaborators recognise that arrangements in relation to a consortium bid may be subject to future change. Suppliers should therefore respond on the basis of the arrangements as currently envisaged. Suppliers are reminded that Collaborators must be immediately notified of any changes, or proposed changes, in relation to the bidding model so that a further assessment can be carried out by applying the selection criteria to the new information provided. Collaborators reserve the right to deselect the Supplier prior to any award of contract, based on an assessment of the updated information.

Confidentiality

38. When providing details of contracts in answering section 5 of this PQQ, the Supplier agrees to waive any contractual or other confidentiality rights and obligations associated with these contracts.
39. Collaborators reserve the right to contact the named customer contact in section 5 regarding the contracts included in section 5. The named customer contact does not owe Collaborators any duty of care or have any legal liability, except for any deceitful or maliciously false statements of fact.
40. Collaborators confirm that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the Public Contracts Regulations.

Freedom of Information

41. In accordance with the obligations and duties placed upon public authorities by the Freedom of Information Act 2000 (the 'FoIA'), all information submitted to Collaborators may be disclosed in response to a request made pursuant to the FoIA.
42. In respect of any information submitted by a Potential Provider that it considers to be commercially sensitive the Potential Provider should:

- clearly identify such information as commercially sensitive;
- explain the potential implications of disclosure of such information;
- provide an estimate of the period of time during which the Potential Provider believes that such information will remain commercially sensitive.

43. Please submit responses to the above as an Annex with the completed PQQ.

44. Where a Potential Provider identifies information as commercially sensitive, Collaborators will endeavour to maintain confidentiality. Potential Providers should note, however, that, even where information is identified as commercially sensitive, Collaborators might be required to disclose such information in accordance with the FoIA. Accordingly, Collaborators cannot guarantee that any information marked 'commercially sensitive' will not be disclosed.

Conflicts of interest

45. In accordance with question 3.1 (e), Collaborators may exclude the Supplier if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.

46. Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the Supplier to inform Collaborators, detailing the conflict in a separate Appendix. Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by Collaborators should not represent a conflict of interest for the Supplier.

Taking Account of Bidders' Past Performance

47. In accordance with question 3.1 (h), Collaborators may assess the past performance of a Supplier (through a Certificate of Performance provided by a Customer or other means of evidence). Collaborators may take into account any failure to discharge obligations under the previous principal relevant contracts of the Supplier completing this PQQ. Collaborators may also assess whether specified minimum standards for reliability for such contracts are met.

48. In addition, Collaborators may re-assess reliability based on past performance at key stages in the procurement process (i.e. Supplier selection, tender evaluation, contract award stage etc.). Suppliers may also be asked to update the evidence they provide in this section to reflect more recent performance on new or existing contracts (or to confirm that nothing has changed).

'Self-cleaning'

49. Any Supplier that answers 'Yes' to questions 2.1, 2.2 and 3.1 should provide sufficient evidence, in a separate Appendix, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively "self cleans" the situation referred to in that question. The Supplier has to demonstrate it has taken such remedial action, to the satisfaction of Collaborators in each case.

50. If such evidence is considered by Collaborators (whose decision will be final) as sufficient, the economic operator concerned shall be allowed to continue in the procurement process.

51. In order for the evidence referred to above to be sufficient, the Supplier shall, as a minimum, prove that it has;

- paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
- clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
- taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

52. The measures taken by the Supplier shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by Collaborators to be insufficient, the Supplier shall be given a statement of the reasons for that decision.

PQQ – Template for Appendices

Appendix Number -

PQQ section -

Question number -

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