

Legal Services Department

Bids Process

This document sets out the process that will be followed by the Legal Services Department in supporting bids made by the University for it to deliver services to third parties.

Where the University is seeking bids from third parties to deliver services to it, please contact Procurement.

Where the University is bidding for funding linked to research, please contact RES.

The full process for bids supported by Legal Services is set out in Annex 1 to this document.

1. Advance warning

Supporting bids is time-consuming and can often be complex. The Legal Services team require as much notice as possible that you intend to apply, even before you have received the relevant paperwork. This means we can plan in the work to support you. Please email us on legalservices@reading.ac.uk to let us know this work is coming, and when you expect to receive the RFP.

2. Receipt of the Request for Proposals (RFP)

2.1. The RFP often includes a number of different documents, such as:

- (a) Bid submission instructions
- (b) Specification of work to be performed
- (c) Non-disclosure agreement
- (d) Terms to use procurement software necessary to submit your bid
- (e) A procurement questionnaire
- (f) Data protection agreements
- (g) Contract for delivery of services
- (h) Declarations to be signed

2.2. Please provide **all** of the documents to Legal Services **as soon as you receive them**, along with Form A at Annex 2 to this document. Unless you have been given the name of an individual in the team who will be supporting this work (as a result of the advance warning under section 1), this should be sent to legalservices@reading.ac.uk.

2.3. When sending this information, you must identify who will be project managing the bid. Legal Services will need a single point to contact for this piece of work. This must be someone who is sufficiently senior and who fully understands the bid, so we can seek instructions and provide advice.

2.4. It is vital that someone in the School/Project Team who is closely involved in the bid reads all of the relevant document and fully understands what is required and what the University is able to deliver.

Legal Services Department

3. NDAs and other terms

- 3.1. Often the University is asked to sign NDAs or other terms and conditions before you are able to proceed with the bid. These must be highlighted to us in Form A, and we will review these for you.
- 3.2. If amendments are required, we will send a marked up version back to you to be shared with the potential client. If the terms of these initial documents are accepted Legal Services will arrange for signature in accordance with our usual signing procedures.

Please note: Unless you have a specific written delegation to sign these documents, they must be signed centrally via Legal Services. If you are uncertain of this, please ask us.

4. Initial View

- 4.1. In order to assist the School/Project Team in commencing the bid process, Legal Services will conduct an initial, high level review of the relevant terms. This will enable you to identify clarification questions to put to the potential client via the bid process and will assist you in pricing your bid or deciding whether to proceed. This review is not a full review of the terms and should not be relied upon as such.
- 4.2. Where there are legal points that require clarification arising from our initial review, we will provide you with the questions to ask. You will be responsible for raising these questions with the potential client and for passing responses back to Legal Services.

5. Due diligence questionnaires

- 5.1. It is the role of the School/Project Team to respond to due diligence questionnaires and Legal Services will not manage this process for you.
- 5.2. You will need to review the questionnaire and seek the input of relevant colleagues to populate your response. Legal questions can be directed to Legal Services, but others must be sent to the most appropriate department. **Please note:** these questionnaires often contain complex data protection and information security questions, and should be passed to IMPS (imps@reading.ac.uk) and IT as soon as possible.

6. Contract review

- 6.1. Once you have made the decision that you intend to submit a response to the RFP, Legal Services will conduct a full review of the terms.
- 6.2. As much notice as possible is required that you do intend to proceed. These contracts are often very lengthy and contain onerous terms, requiring considerable review, and take many hours to complete properly. If Legal Services is not given sufficient time to do this, we may need to seek external legal advice, the cost of which will be the responsibility of the School/Project. Typically this is between £2,000 and £5,000 plus VAT.
- 6.3. The way in which this review is done will depend upon the type of process being following by the prospective client, as follows:
 - (a) If the prospective client is in the public sector, and is following a two

Legal Services Department

stage (restricted) procedure, Legal Services will only conduct the full review if you reach the second stage of the process, unless exceptionally these terms have to be accepted at stage 1.

- (b) If no amendments are permitted to the agreement, Legal Services will provide a detailed report, which will need to be signed off by senior colleagues (in line with usual delegations) that any risk presented by the terms is acceptable to the University.
 - (c) If amendments are permitted, Legal Services will mark up the agreement for submission with your tender.
- 6.4. Where acceptance or mark up of the terms is scored as part of the tender response, Legal Services will work with you to balance the potential risk to the University of unfavourable terms against the commercial importance of putting forward a bid that is compliant and will not be scored in a way that is unnecessarily detrimental.
- 6.5. As part of our view, we may have questions or comments, or require you to seek/provide additional information. This must be given to us in a timely manner or we may not be able to meet your submission deadline.
- 6.6. Whilst Legal Services will review the terms, you are also required to read the contractual documents. In particular:
- (a) Legal Services cannot advise on whether you can meet the operational requirements or service warranties – you must be clear you can do all the things the contract requires of you;
 - (b) You must ensure that the amount (if set) and structure of any payment terms are appropriate for what you are delivering; and
 - (c) Where the contract sets out milestones or KPIs (which may or may not have service credits attached to them) you must be confident that you can meet these, and that you have factored potential service credits into your pricing.
- 6.7. You are responsible for **proactively** seeking advice from colleagues in other Functions on matters set out in the agreement. Whilst Legal Services may flag this up in our review, in order to ensure you have timely advice from relevant colleagues you must not rely on Legal Services doing this and should seek out such advice in advance. Typically this will be:
- (a) Financial terms – your finance business partner
 - (b) IT obligations – relevant part of IT
 - (c) Insurance, to confirm we have the cover required in the contract – insurance@reading.ac.uk
 - (d) Tax, particularly if there is an overseas element to the delivery – tax@reading.ac.uk

You may need to contact other Functions where there is an obligation to deliver something over which you do not have direct control.

Legal Services must be informed that this review has occurred and by whom and told of any issues that are flagged, as we will need to report on these for sign off

Legal Services Department

purposes. If we do not have this confirmation, you may not be able to submit on time.

- 6.8. Legal Services will liaise with IMPS concerning the data protection obligations and clauses, as appropriate. However, if your project involves the transfer of personal data it is important that you work directly with IMPS at the start of the process on the operational demands.
- 6.9. You will need to read carefully the advice provided by Legal Services concerning your bid. It is likely to set out key terms with which you must comply if successful (although this should not replace a thorough reading of the contract, as our advice will not cover every obligation) and will provide advice on requirements or mitigations you will need to put in place to manage legal, commercial or operational risks. If you have any queries on this, you can discuss further with us.

7. **Translations/overseas bids**

- 7.1. Where you are bidding for work outside of the United Kingdom, you may have to provide your response in a language other than English. This may also apply to contracts/mark-ups.
- 7.2. Legal Services can arrange for the translation of **legal** documents if required, but the cost of this must be met by the School/Function.
- 7.3. Where a contract is not in English and the language of the contract is expressed to be that language (i.e. not the English version), then an externally obtained translation is required before it can be signed for the University.
- 7.4. The University Legal Department is qualified to offer advice only on the law of England and Wales. Whilst we may carry out a review of contracts governed by different law, this is on the understanding that we are not qualified in that jurisdiction. Depending on the value, liabilities and potential scope of the contract, local advice may be appropriate. If this is required we will discuss with you how the cost of local legal advice is met.

8. **Sign off and submission**

- 8.1. On completion of our mark up/advice where no amendments are permitted, and following discussion with you around the balance of commercial and legal risks, Legal Services will provide confirmation that the contractual elements of the bid can be submitted.
- 8.2. Where the bid has to be signed **and** there is a contractual element to submission (we will advise where this is the case) Legal Services will obtain signature and provide a sign off sheet to the signatory. **Please note:** Unless you have a specific written delegation to sign contractual documents, they must be signed centrally via Legal Services. If you are uncertain of this, please ask us.
- 8.3. It is the responsibility of the School/Project Team to submit the bid within the deadline set out in the RFP.

9. **Completion of agreements**

- 9.1. If your bid is successful, contracts will usually need to be signed. Please contact Legal Services as soon as you have received a successful outcome.
- 9.2. Where the terms cannot be negotiated or the agreement is in final form, Legal

Legal Services Department

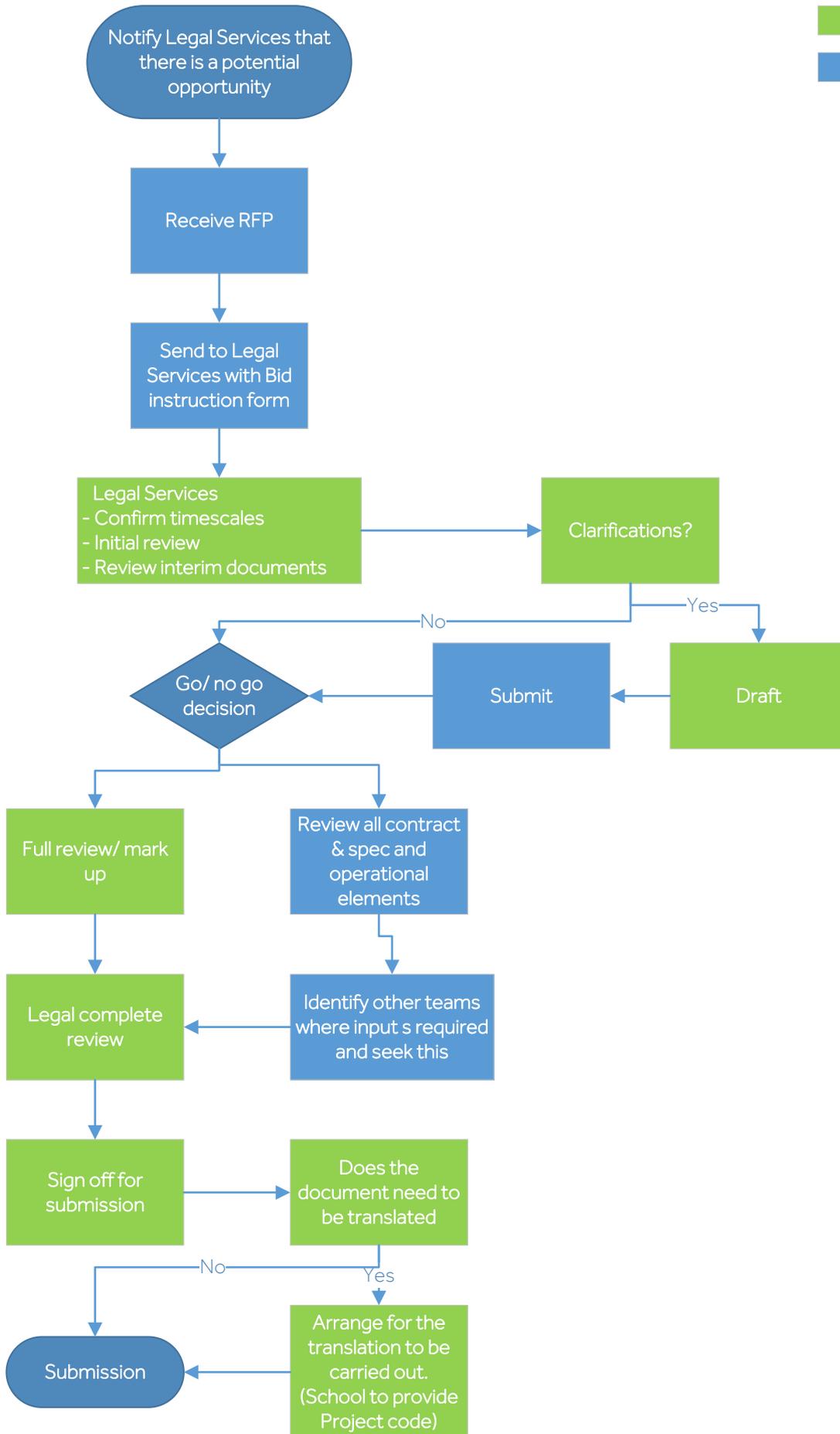
Services will arrange for signature and the contract will be logged with us.

- 9.3. Where we have provided a mark-up and some or all of those proposed terms have not been accepted, it is likely that the parties will need to negotiate. Legal Services must be involved in this process, either directly or supporting you in your discussions with the potential client. On reaching agreement, Legal Services will arrange for signature and the contract will be logged with us.
- 9.4. Often, these agreements are frameworks, with call offs/statements of work issued to cover particular items of work. These should be reviewed by Legal Services and, unless a particular delegation has been agreed, we will arrange for signature and the call off/statement of work will be logged with us.

Legal Services Department

Annex 1: Bids Flowchart

Bid Process



Legal Services Department

Annex 2: Form A

FORM A: Instructions to Legal Services for Bid Submission

To	
From	
Date	

Key dates:

Clarification response?	
Tender submission?	
Submission of any other documents (e.g. NDA) (please specify)?	

Key information:

Company/organisation?	
What is the tender for?	
Value of services?	
Is the contract strategically important? Why?	
Are the contract terms: <ul style="list-style-type: none"> • Negotiable? • Scored? 	(circle as applicable) YES / NO YES / NO
How likely is the University to bid for the work?	
Any other key information?	

Include with this sheet ALL documents provided:

Document	Included?	To be signed?
Instructions for tender		
Specification		
Terms and conditions for review		
NDA		
Declarations		
Other documents (please specify):		