



Jersey Financial
Services Commission

Expressions of Interest for Participation in the Jersey Financial Services Commission's Legal Services Panel Invitation to Tender

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JFSC Official

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1. Introduction

The Jersey Financial Services Commission (**JFSC**) is seeking expressions of interest from suitably experienced firms to tender for appointment to a Legal Panel (the **Panel**) for the provision of legal advice and representation (**Legal Services**) to support the work of its Enforcement Division.

2. Role of the JFSC

The JFSC is the financial regulator for Jersey. We aim to deliver balanced, progressive, risk-based financial regulation for the Island, built on insight, integrity and expertise.

Our mission is to maintain Jersey's position as a leading international finance centre with high regulatory standards whilst adhering to our guiding principles:

- › Reducing risk to the public of financial loss due to dishonesty, incompetence, malpractice or the financial unsoundness of financial service providers.
- › Protecting and enhancing the reputation and integrity of Jersey in commercial and financial matters.
- › Safeguarding the best economic interest of Jersey.
- › Countering financial crime both in Jersey and elsewhere.

Our statutory responsibilities are set out in the Financial Services Commission (Jersey) Law 1998 (the **Commission Law**) and include:

- › Authorising, supervising, overseeing and developing financial services in Jersey
- › Enforcing the Commission Law
- › Reporting, advising, assisting and informing the Government of Jersey (**Government**) and public bodies
- › Developing policies
- › Operating the Companies Registry.

We aim to fulfil these responsibilities by:

- › Ensuring that all authorised financial services businesses and individuals meet the appropriate criteria and that we, as the regulator, match international standards of banking, securities, funds, trust company business (**TCB**), and insurance regulation
- › Playing a full role in combatting the financing of terrorism and financial crime as part of the wider international effort
- › Working closely with fellow regulators and law-makers to ensure efficient and effective access to markets for financial services
- › Reacting to and, where appropriate, anticipating changes in markets and Industry by developing policy and the way we supervise
- › Acting as an agile, thoughtful, proportionate and listening regulator that gives fair consideration to both the costs and benefits of regulation.

3. Scope of procurement

The principal areas of work on which firms appointed to the panel (**Panel Members**) will be asked to provide advice and support are:

- › application and use of the regulatory framework administered by the JFSC (see Section 11);
- › application of the JFSC's Decision Making Process; and
- › advising on points of Law specific to cases, for example, contract Law.

4. Contract value

Whilst it is not possible to predict, with certainty, the revenue to be derived by Panel Members, the JFSC's litigation and investigation costs are a matter of public record (<http://www.jerseyfsc.org/the-commission/general-information/publications-communications/annual-reports/>¹) and are indicative of the order of magnitude.

5. Proposed contract

Panel Members will be appointed, under contract. The contracts are expected to commence in July 2018 and will be subject to biennial appointment by the JFSC's Legal Services Appointment Panel.

6. Exclusions and restrictions

Appointment as a Panel Member excludes providing services on employment law/HR issues.

Panel Members will no longer be required to provide an undertaking preventing them from acting against the JFSC during the period of appointment. Panel Members will be expected to manage their own conflicts of interest.

Panel members will not be precluded from being appointed as a reporting professional in relation to cases where they are not providing legal advice to the JFSC.

7. Questions

If you have any queries about this questionnaire, please submit them by email under the heading of Legal Services Procurement to PMO@jerseyfsc.org

8. Expressions of Interest

To record your interest, please provide the following basic details of your organisation by email, with a subject heading of Legal Services Procurement, to PMO@jerseyfsc.org no later than 12:00 GMT on 24 May 2018.

Name of organisation
Contact name for enquiries about this questionnaire
Job Title
If a member of your group or sub-contractors are likely to deliver a significant (over 50%) part of the contract, give their company name(s) and address.

9. Next Steps and Procurement Timeframe

The JFSC will issue the Legal Services Panel Invitation to Tender (ITT) to shortlist firms on 7 June 2018. In advance of this issuance and to assist firms in determining whether they wish to submit an Expression of Interest, the following guidance and overview is provided:

The JFSC will appoint an evaluation panel to review responses to the ITT and to conduct interviews of shortlisted firms. The evaluations will be made using a defined set of criteria to reach a decision

¹ Annual Reports – 2016 page 61, 2015 page 57, 2014 page 115

based on eligibility, suitability and compatibility. The following table provides an overview of the primary evaluation criteria:

Financial Standing	Credit checks Employer's Liability, Public Liability and Professional Indemnity Insurance cover requirements
Regulatory track record	Membership of the Jersey Law Society, any disciplinary sanctions and/or breaches of The Law Society of Jersey Code of Conduct For Applicants who hold a Schedule 2 Business Registration (Level 2) the JFSC will consider regulatory track record
Structure	Operates in Jersey Have the resources or access to the resources necessary to perform as a panel member which, at times, may require acting at short notice in relation to complex matters and/or where safeguarding measures are necessary – applications to Royal Court. Demonstrates a resourcing compliment across all of the following roles (disclosure of named resources at Senior Advocate and Advocate level will be required): <ul style="list-style-type: none"> › Senior Advocate › Advocate › Legal Assistant › Junior Legal Assistant › Paralegal
Mandatory specialism	Matters associated with section 3 above, applications to the Royal Court and responding to judicial review
Optional specialism	Multi-jurisdictional litigation
Cyber Security measures	States of Jersey procurement standard http://www.digitalpolicy.gov.je/objectives/robust-cyber-security
Value added Panel services and knowledge sharing	Provision of Panel services – regularly and periodically, free of charge, know-how relevant to the JFSC e.g. <ul style="list-style-type: none"> › Breakfast briefings › Insights and articles › e-briefings
Collaborative working	Recent (last 3 years) collaborative working with another law firm in delivering a legal solution to client where the matter was highly complex
Conflict of Interest - identification and management controls	Policies, procedure and case study with reference to Rule 6 of The Law Society of Jersey Code of Conduct

Pricing Models	The JFSC is seeking to move away from traditional time based pricing model and will invite firms to submit proposals demonstrating a blend of costing options
Quality Assurance standards	ISO 9001:2008; or ISO 9001: 2015; or LawNet Quality Standards http://www.lawnet.co.uk/membership-benefits/quality-compliance-risk-management/lawnet-quality-standard/
Business Continuity and Disaster Recovery	Self-certification that business continuity and disaster recovery plans meet legal requirements

The following dates are indicative and may be subject to change by the JFSC. Notification of such changes will be provided with as much reasonable notice as possible and where deemed necessary, the agreement of the Applicant.

Procurement Milestone	Date
ITT document issued to shortlisted firms	7 June 2018
Deadline for submission of clarification questions	14 June 2018
Response to clarification questions shared with candidates	18 June 2018
Deadline for Submission of Tender Document	21 June 2018
Panel interview	29 June 2018
Notification of chosen Panel members – subject to contract	w/c 30 July
Panel member induction	TBC

In the case of all target submission dates the closing time is 12:00 GMT

10. Data protection

Personal data provided to the JFSC - a data controller as defined in the Data Protection (Jersey) Law 2005 - will be used by the JFSC to discharge its statutory, administrative and operational functions. Further information may be found in the JFSC's Data Protection policy, copies of which are available on request from the JFSC and which may also be found on <http://www.jerseyfsc.org/>

11. Regulatory Framework Administered by the JFSC

The principal areas of work on which firms appointed to the panel (**Panel Members**) will be asked to provide advice and support are:

- › application and use of the Regulatory Laws <http://www.jerseyfsc.org/the-commission/legislation/>;
- › application of Codes of Practice <http://www.jerseyfsc.org/the-commission/general-information/codes-of-practice/>;
- › application and use of the AML/CFT Laws <http://www.jerseyfsc.org/anti-money-laundering/regulated-financial-services-businesses/legislation/>;
- › application of the Handbooks for the Prevention and Detection of Money Laundering and Financing of Terrorism <http://www.jerseyfsc.org/anti-money-laundering/regulated-financial-services-businesses/amlcft-handbook/> and <http://www.jerseyfsc.org/anti-money-laundering/other-businesses-and-organisations/amlcft-handbooks/>;
- › application of Policy Statements and Guidance Notes <http://www.jerseyfsc.org/the-commission/general-information/policy-statements-guidance-notes/>;
- › assist the Commission in the ongoing development of its processes and procedures, and the provision of legal opinion on points of law in relation to the ongoing development of the regulatory laws;
- › application of the JFSC's Decision Making Process <https://www.jerseyfsc.org/media/1749/decision-making-process-march-2018.pdf>;
- › and points of Law specific to cases, for example, contract Law.