



BAR
STANDARDS
BOARD

REGULATING BARRISTERS

Invitation to tender for the provision of computer-based
testing services.

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Invitation to Tender: Services to be provided to the Bar Standards Board

1. Introduction

- 1.1. The Bar Standards Board (“BSB”) invites expressions of interest from suppliers with the knowledge, expertise and experience to design and deliver computer-based testing services.
- 1.2. This project will be known as the BSB CBT project.
- 1.3. The project will be governed by the BSB.

2. Background

About the BSB and what we do

- 2.1. The BSB is the regulator for barristers in England and Wales. The Legal Services Board (LSB), established by the Legal Services Act 2007, oversees the activities of the BSB. The BSB is responsible for:
 - Setting the education and training requirements for becoming a barrister;
 - Setting continuing training requirements to ensure that barristers' skills are maintained throughout their careers;
 - Setting standards of conduct for barristers;
 - Authorising organisations that focus on advocacy, litigation, and specialist legal advice;
 - Monitoring the service provided by barristers and the organisations we authorise to assure quality;
 - Handling complaints against barristers and the organisations we authorise and taking disciplinary or other action where appropriate.
- 2.2. Our objectives are:
 - Protecting and promoting the public interest;
 - Supporting the constitutional principle of the rule of law;
 - Improving access to justice;
 - Protecting and promoting the interests of consumers;
 - Promoting competition in the provision of services;
 - Encouraging an independent, strong, diverse and effective legal profession;
 - Increasing public understanding of citizens' legal rights and duties; and
 - Promoting and maintaining adherence to the professional principles.
- 2.3. The BSB is required to be a risk-based, transparent and proportionate regulator, targeting our work at the areas of most need in relation to our regulatory

objectives¹. The BSB Handbook sets out the regulatory framework and includes the Code of Conduct, Bar Training Rules, Practising Regulations, Authorisation Regulations and essential guidance. The Equality and Diversity Rules and Guidance are published separately but the principles run through all BSB work.

- 2.4 We are responsible for setting the education and training requirements for those who wish to qualify and practise as barristers in England and Wales. As part of this, centralised examinations are set on behalf of the BSB by the Centralised Examinations Board (CEB). The CEB consists of a group of senior examiners, including experienced legal practitioners and academics. Psychometric and examination experts support the work of the CEB. Centralised examinations were introduced to ensure consistency across Bar training course providers, and closer regulatory oversight of standards. There are three subjects which are centrally examined: Professional Ethics, Civil Litigation and Evidence, and Criminal Litigation, Evidence and Sentencing. The Litigation examinations are multiple-choice and taken during the vocational stage of Bar training. The Professional Ethics examination comprises short answer questions and is taken during the pupillage/work-based training stage of Bar training. Further details about the examinations are given in Annex 1.

3. Objectives

3.1. To provide an end-to-end solution for:

- A. remote authoring; and
- B. banking of questions; and
- C. candidate registration, delivery; and
- D. marking and moderation of the Professional Ethics short answer question (SAQ) examination to be taken during work-based learning/pupillage.

3.2. Items A and B apply to the Civil Litigation and Criminal Litigation multiple choice (MCQ) examinations, as well as the Professional Ethics SAQ examination. Items C and D only apply to the Professional Ethics SAQ examination.

4. Background to project

See Annex 1. Bidders should also be aware that the BSB has commissioned an independent review into their delivery of computer-based assessments in August 2020. This review is led by Professor Becky Huxley-Binns and will report to the BSB by the end of January 2021, This ITT has been developed to include our own reflections on the August exams but any recommendations on computer based assessment from the review will need to be addressed in the system development by the preferred supplier.

5. Deliverables

- A remote authoring and question banking tool (this will include items for exams other than Professional Ethics which are delivered as pen and paper tests);
- An online registration system for candidates (c. 400-500 candidates per year);
- Provision of customer services support for candidates from registration through to exam delivery;

¹ See Legal Services Act 2007 s1 and s28(3) and BSB [Risk Outlook](#), [Index](#) and [Framework](#).

- A computer-based testing solution (including test centre and online proctoring delivery) for one three-hour open book examination that is comprised of six short answer (essay style) questions, each in two parts, to be delivered three times per year (in January, April, and August);
- A marking solution for short answer questions that enables data analytics of markers during the marking process so that outliers can be identified by team leaders. The marking solution is to enable blind double marking. The marking solution is to be accessible to markers via an online platform;
- Results; and
- Data analysis provision.

6. Requirements

6.1. In order to deliver the Professional Ethics exam:

6.2. A registration system must be in place. This must include:

- The computer-based testing (CBT) system will allow candidates to register for examinations;
- Only valid user IDs shall be accepted to take the exam (these should be in the form of government issued identification (such as a passport or driving licence) and a unique identifier which shows that the candidate is a pupil and is eligible to take the assessment (this is likely to be their CRM information);
- Candidates' identities must be confirmed before they can take the exam on the CBT system;
- Candidates must be informed of how their data will be processed and systems must be GDPR compliant, meeting the security requirements of Article 32 (see also section 22); and
- If taking a remotely proctored exam, candidates must first pass a system test before being given access to an exam on the CBT system. If taking a remotely proctored exam, the system requirements must be comparable to the standard equipment available to the majority of candidates.

6.3. The integrity of the assessment must be preserved:

- The CBT system will be user friendly, reliable and prevent unauthorised access;
- The examination must be delivered in such a way that the content cannot be copied, downloaded or otherwise retained by the candidate, including through taking screen shots. Attempts by the candidate to photograph or otherwise record the exam must be flagged by the system and the BSB should be informed;
- If breaks are permitted, the integrity of the assessment must be preserved by ensuring that unproctored breaks do not exceed the permitted length
- The Ethics exam is open book; the CBT system must have processes/systems in place to check that only permitted materials are accessible to the candidate (be it a printed or online version of the BSB Handbook);
- Processes must be in place to ensure that the candidate has no means of contacting others during the examination including through a VPN or blue-tooth devices or use of the latter for cheating by a third party; and

- Systems must be in place to prevent access to the internet (unless solely to the online version of the BSB Handbook), or to any prohibited materials stored on the computer.

6.4. The CBT system must be accessible to all candidates:

- The CBT system must have the scope to deliver examinations in multiple locations;
- The CBT system must be able to accommodate a number of candidates simultaneously; we prefer that all are tested on the same day, using the same examination;
- The CBT system will provide clear and sufficient on-screen instructions; and
- Where appropriate, the CBT system will have suitable practice items and tutorials. Guidelines should be available to candidates so that they know what to expect. Candidates should be able to familiarise themselves with the look and feel of the examinations and how to navigate through them (eg through sample tests).
- The BSB has a duty to ensure that its assessments are as accessible as possible to those who need reasonable adjustments. These will include (but are not limited to) additional time, breaks, different fonts, coloured backgrounds. We would also expect that the CBT system would be able to enable screen reading software such as JAWS. The CBT system must therefore be able to accommodate reasonable adjustments for as many candidates as possible and the BSB will seek to make alternative arrangements for those whose reasonable adjustments cannot be accommodated within the CBT system.

6.5. Technical requirements

- The CBT system will allow use of a scoring key;
- A minimum passing score threshold can be set within the CBT system;
- The CBT system will have a user-friendly interface that shows only one question on a screen at a time;
- Every candidate will be able to respond to the same items under the same conditions on the CBT system;
- Candidates will be able to move back and forth between questions and change answers as desired until the point where they submit their exam;
- Candidates will be presented with a confirmation option before they commit to the final action of submitting the exam;
- The CBT system will ensure that candidates answers are saved automatically in the event of a technical issue;
- The CBT system can be accessed by Examiners and BSB Administrators.
- The CBT system will be able support a marking solution for short answer (essay style) questions; and
- Candidates' answers will be evaluated according to the same scoring standard and the system will enable data analytics of markers during marking process.

6.6. In order to permit remote authoring of questions and banking of questions:

- The CBT system can be accessed by Examiners and BSB Administrators;
- The CBT system (question banking and remote authoring) will be able to accommodate multiple choice and short answer questions;
- The CBT system will allow individual upload of questions one after another or in batches; and
- Question text, answers and explanations, history of use and performance analysis data will be available.

6.7. For all parts of the project:

- The CBT system will have very high security features to prevent any form of malpractices or illegal use;
- The CBT system will ensure that no information is lost when the Internet connection is lost;
- The CBT system will take into account the possibility of fluctuations in demand at different times; and
- The CBT system will use appropriate technological features to enhance usability and follow established graphical user interface (GUI) design standards, particularly to assist those with visual impairment.
- If data is not stored in the UK/EEA, suppliers must demonstrate that they meet our requirements as to how they store and manage data, and this must also be in line with data protection legislation.

7. Price

7.1. Tenderers are invited to submit their initial bids. It is not always the case that the lowest bid will be awarded the contract as the BSB will be keen to select a supplier that can meet all of the essential criteria as possible; of which price is only one of them.

8. Instructions to tenderers

8.1. This Invitation to Tender (ITT) has been prepared by the BSB for the purpose of inviting proposals from organisations for the provision of the services described in the objectives at section 3 of this document. Tenderers must submit no later than Friday 22 January 2021.

Summary of procurement timetable

8.2. The following is a summary of the timetable that applies to this procurement. The BSB reserves the right to alter this timetable by notice to tenderers.

Description	Date
Organisations to be informed that a tender will be issued in December	Friday 11 December 2020
Organisations to request clarifications on the tender	Monday 14 December 2020 to Friday 8 January 2021

BSB to respond to clarifications by	Friday 15 January 2021
Deadline for organisations to submit tenders	Friday 22 January 2021
BSB Evaluation panel to score responses	Monday 25 January 2021
Shortlisted suppliers to be interviewed/to present	Tuesday 9 to Thursday 11 February 2021
Successful tenderer informed of award	By Friday 19 February 2021
Signing of contracts	March 2021
Commencement of contract	March 2021
Delivery of first exams	January 2022

- 8.3. Following interviews with shortlisted candidates the BSB expects to be able to select and notify successful and unsuccessful tenderers during the week commencing 22 February 2021.
- 8.4. Organisations will be notified if there are any delays to the timetable for evaluation of proposals.
- 8.5. Unless stated otherwise in these instructions or in writing from the BSB, all communications from tenderers (including their sub-contractors, consortium members, consultants and advisers) during the period of this procurement exercise must be directed to the designated BSB contact named in the details above.
- 8.6. To simplify exchange of information regarding this ITT, please nominate a Key Contact or Bid Manager (together with a deputy) and relevant contact telephone numbers and email addresses.
- 8.7. The BSB shall actively manage the resulting contract and key activities including project scoping and review meetings, quality assurance checks throughout project life cycle and management of key performance indicators and deliverables.
- 8.8. The instructions outlined are designed to ensure that all tenderers are given equal and fair consideration. It is important therefore that tenderers provide all the information asked for in the format and order specified. Tenderers must contact the BSB via the ITTE exams@barstandardsboard.org.uk email address if they have any doubt as to what is required or will have difficulty in providing the information requested.
- 8.9. Tenderers must read the instructions on the tendering procedures carefully. Failure to comply with them or to return any of the required documents or information may invalidate their tender which must be returned by the date and time given below.

9. Questions about this ITT

- 9.1. As above, tenderers may submit any queries they have relating to this ITT to ITTE exams@barstandardsboard.org.uk.

- 9.2. Any specific queries should clearly reference the appropriate paragraph in the documentation and, to the extent possible, should be aggregated rather than sent individually. As far as is reasonably possible, the BSB will respond to all reasonable requests for clarification of any aspect of this ITT and supporting documents in accordance with the following paragraph, provided they are received before the above deadline. No queries received after the above deadline will be answered.
- 9.3. Answers to questions received by the BSB will be circulated by email to all tenderers on or before Friday 15 January 2021. All questions and their answers will be circulated to all tenderers (without revealing the identity of the individual tenderer that put forward a particular question).

10. Selection Criteria

- 10.1. The BSB will be aiming to deliver value for money. However, that does not mean automatically accepting the lowest bid. The tender evaluation process will be used to evaluate the competence of the bidder against the below criteria. Each criterion will be weighted to score the tenders.

Table 2 Criteria weighting

Criteria	Weighting %
<ul style="list-style-type: none"> Company history: Three years of audited accounts have been provided and response provides robust assurance that the tenderer has proved itself to be financially stable. All documents requested have been provided. 	3
<ul style="list-style-type: none"> Compliance with ITT: Response provides evidence that all the requirements stated in the ITT have been met and all deadlines met. 	3
<ul style="list-style-type: none"> Client references: Response provides strong references from existing clients. 	3
<ul style="list-style-type: none"> Relevant experience: Details of experience of working with similar organisations in delivering high stakes examinations. Responses provided examples of similar projects. 	2
<ul style="list-style-type: none"> Operational plan: Response provides detailed and systematic approach to ITT service requirement and sufficient evidence of meeting the ITT requirements. Response makes it clear whether requirements below can be purchased as stand-alone items or can only be purchased together. 	<p><i>Scoring is indicative of the weighting of each individual element and each component will be considered separately rather than as a total for the operational plan section.</i></p>
<ul style="list-style-type: none"> (i) Remote authoring and question bank provision (ii) Online candidate registration provision 	<ul style="list-style-type: none"> (i) 8 (ii) 8

(iii) Provision of customer support for candidates	(iii) 8
(iv) CBT examination delivery provision, including demonstrating that the CBT provision is accessible by, and capable of meeting the reasonable adjustment needs of, the majority of candidates	(iv) 8 (v) 8 (vi) 8 (vii) 8 (viii) 8
(v) Test centre and remote proctoring provision	
(vi) Marking and moderation solution provision	
(vii) Examination results provision	
(viii) Data analysis provision	
<ul style="list-style-type: none"> Security arrangements: Tenderer has provided specific information on how it will implement and ensure ongoing security of all data management and systems. 	3
<ul style="list-style-type: none"> Training: Tenderer has provided specific information on how it will provide user training and its training delivery plan. Tenderer has made clear what ongoing training support and assistance with queries will be provided and any costs that this will incur. 	3
<ul style="list-style-type: none"> System support: Tenderer has provided specific information on its provision of ongoing technical support for its systems and made clear any costs. 	3
<ul style="list-style-type: none"> Cost: Tenderer has provided specific costing for its services with a detailed breakdown of services and associated costs, including whether the indicated prices are fixed or variable, whether costs are one-off or recurring, and whether the price proposals are competitive and represent value for money. 	10
<ul style="list-style-type: none"> Relationships: Details of key staff have been provided, including previous experience, individual roles and responsibilities and continuity measures to ensure quality service provision. Organograms can be submitted. 	2
<ul style="list-style-type: none"> Long term roadmap: Tenderer has provided evidence of ongoing review, reporting and communication plans and has given examples of how this is undertaken with other clients. Tenderer has made it clear where the functionality to meet requirements already exists and where it is still in development. 	2
<ul style="list-style-type: none"> Supporting material: Has the tenderer provided any information that strengthens its response to the tender? 	2
TOTAL	100

10.2. The shortlisted tenders will be invited to a presentation before the tender evaluation board.

11. Return of project proposals

- 11.1. Responses must arrive no later than 6:00 PM on Friday 22 January 2021 which is the date fixed for submission of responses.
- 11.2. The respondents must submit an email with all tender documents attached in Microsoft Word format to ITTEExams@barstandardsboard.org.uk.
- 11.3. All responses shall be signed by a duly authorised senior officer of the respondent. The details contained in each tenderer's response may be specified in any future contract or may form an appendix thereof. Tenderers should therefore make sure that their responses are authorised at an appropriate level which would enable them, should they be successful, to become the subject of a binding contract.
- 11.4. The BSB will not consider any late responses to this ITT. It may, however, in its own absolute discretion extend the time or date fixed for submission and in such an event the BSB will notify all tenderers accordingly.
- 11.5. After the review is completed, the BSB will retain copies of all responses to satisfy its audit obligations.

12. Response to project proposal

12.1. The tenderers' response should be divided into the following sections:

- Relevant experience;
- Operational plan;
- Security arrangements;
- Training;
- System support;
- Project management;
- Long term roadmap;
- Cost; and
- References.

12.2. The relevant experience section will need to cover details of the tenderer's experience and understanding of working with examination boards and awarding organisations for high stakes assessments, including examples of similar projects undertaken.

12.3. The operational plan section will need to cover:

- A detailed description of how the proposed solution(s) will match the requirements and processes set out in section 5 Deliverables (above) and in Annex 1, including how the solution will meet the reasonable adjustment needs of the majority of candidates;
- An approach to agreeing parameters for the BSB retaining an acceptable degree of control;
- The procedures and controls the tenderer will use;

- The identification of key risks to the delivery of the contract, and the measures that will be taken to mitigate them;
- The liaison arrangements, including the number of contacts;
- Complaints handling, problem resolution and escalation procedures; and
- How tenderers will interface or possibly remove the requirements of other BSB systems.

12.4. The security arrangements section will need to cover:

- Details of how tenderers will implement and ensure on-going security of all data and systems for the provision of candidate registration, computer-based testing (the end to end process of delivery of examinations, including marking, moderation and results), remote authoring and question banking, and data analysis; and
- Business continuity and back up measures in the event of power failure or other major incidents for any off-site services provided.

12.5. The training section will need to cover details of how tenderers will deliver user training, including details of how they will minimise disruption of day-to-day operations, any training material they will provide and on-going training provision for new users.

12.6. The system support section will need to cover details of how tenderers will provide on-going system support, including details of their approach to managing system administration, technical issues and day-to-day user operational issues.

12.7. The project management section will need to cover:

- Schedule of work (timeline, deliverables, resources, etc.);
- Governance approach;
- Distribution of roles and responsibilities;
- Quality assurance approach; and
- CVs of the proposed team. This will need to include details of the key staff you would envisage being involved in the implementation and service delivery work, including their previous experience and record of project delivery for the last three years.

12.8. The long-term road map section will need to cover:

- Continuous improvement plans;
- Annual Review and Reporting procedures; and
- Plans for improvements and developments in line with technology or statutory and regulatory changes.

12.9. The cost section will need to cover:

- Detailed pricing schedule; and
- Options (if applicable).

12.10. The references section will need to cover:

- Contact details of three relevant references to be contacted;
- Financial documents:
 - A statement of your company's financial stability (to include financial statements), company size, structure and location;
 - Disclose of any enforceable judgments, charges or disqualifications against you or your directors, or if you had to pay any financial penalties or had any payments deducted for non-performance over the most recent five-year period;
- Disclosure of whether any contracts have been terminated prematurely, withdrawn from, or had renewal refused for failure to perform to the terms of the contract over the most recent five-year period;
- Insurance details, particularly your professional indemnity cover; and
- Company policies in relation to Health and Safety, Quality Management Systems, Equality and Diversity, Disaster Recovery, Business Continuity, Environmental, Information Security and Data Protection.

13. Consortia Bids

13.1. The requirements outlined in this ITT are linked and it is essential for the BSB that they work together as a whole, however they are delivered (i.e. by a single supplier or a combination of suppliers). The arrangements must minimise risk to the standards, quality, continuity and reputation of the Centralised Examinations Board (CEB) examinations. Accordingly, the BSB is prepared to accept proposals that cover one, some, or all of the parts set out and described more fully in the business requirements and processes.

13.2. In the case of proposals that deliver all elements, the BSB will be looking for an integrated and seamless solution.

13.3. In the case of proposals that cover only some of the elements, the BSB will need to be satisfied that each supplier can work effectively with the BSB and other supplier(s). The BSB will pay particular attention to the interfaces, expectations, assumptions and requirements of each element of the proposals and the way the risks are to be eradicated or minimised to a very low level. Such risks include the possible discontinuity of provision of service, lack of knowledge or other elements and responsibility and accountabilities.

13.4. Consortia bids that combine experience and expertise in the different elements and requirements of the work, are welcomed.

13.5. If tenderers are bidding for this contract in association with another supplier, they must explain the structure in their bid. Failure to do so may lead to their bid being disqualified.

13.6. Tenderers shall ensure that each and every sub-contractor, consortium member and adviser abide by the terms of these instructions, the conditions of the tender and subject to the same rules and regulations that govern the BSB.

13.7. As the BSB is to become a more modern and efficient regulator operating to externally agreed high standards, fulfilling our mission and upholding and promoting

the regulatory objectives and professional principles, tenderers must demonstrate their willingness and ability to work according to the BSB values, which are:

Fairness and Respect

We strive to achieve equal access and equal treatment, valuing and respecting our differences.

Independence and Integrity

We are objective and evidence-based, open, honest and accountable, and we expect everyone to meet these same ethical standards.

Excellence and Efficiency

We are committed to learning and improving, seeking to maximise our effectiveness by making the best possible use of our resources.

14. Variant Bids

- 14.1. Tenderers are encouraged to be innovative and methodical in their thinking when preparing their tender and to provide any suggestions and solutions that may provide a more cost efficient and value for money solution. Any such proposal which alters the requirements of the specification must be in the form of a variant bid, clearly marked “variant bid”, and must be submitted at the same time as the fully compliant bid requested in this ITT.

15. Equality and Diversity

- 15.1. Tenderers must indicate whether their organisation holds an externally assessed equality and diversity standard e.g. Diversity Works, Diversity Assured, The Common Standard for Equalities In Public Procurement, Disability Confident or equivalent. Organisations must provide information on actions they are taking to promote equality and diversity as an employer and a service provider if they do not hold an externally assessed equality and diversity standard.

16. Risk management and risk assessment

- 16.1. It is the responsibility of tenderers to have systems in place to ensure that when there are risks to the proposed delivery of the CBT project or to meeting any of the BSB’s requirements or deadlines, those risks are identified and addressed.
- 16.2. Tenderers must try to anticipate any risks that the proposed testing system might produce or actions or results that could be misinterpreted or misused (including for purposes that are illegal or harmful). Tenderers must report any risks to, and seek guidance from, the BSB and take action to minimise those risks.

17. Quality assurance

- 17.1. Tenderers must provide details of the quality assurance procedures they have in place in relation to CBT, remote authoring and question banking and agree these

with the BSB at the start of the project to ensure successful delivery and to enable them to identify and act on any concerns. During the implementation of CBT exams, question banking and remote authoring, the successful tenderer will be required to detail what quality assurance processes have been undertaken. The successful tenderer must commit to undertaking quality assurance of all deliverables agreed with the BSB and for the contractor to resolve any issues.

18. General Tenderer Details

- 18.1. Tenderers must supply details of the persons at their organisation who can be contacted by the BSB with any queries arising in relation to their response or otherwise in connection with this ITT. This should include a name, title, address, telephone number, and e-mail address and role in relation to this ITT. The contacts should be able to respond to technical and contractual issues.
- 18.2. Tenderers must give details of their company (or the organisation with which it is proposed that the BSB enters a contractual relationship in relation to the outsourced services if different), stating its full registered address and company registration number.
- 18.3. Tenderers must set out details of any parent or holding company (where appropriate). Tenderers must also state where it is registered, ownership details, including details of the relationship with the parent company's subsidiaries, if applicable.
- 18.4. Tenderers must set out their geographical locations which are relevant to the requirements set out in this ITT and specify the location or locations from which they would be providing each of the services set out in this ITT.
- 18.5. Tenderers must provide a set of their annual reports and audited accounts for the last three trading years and those relating to their parent or holding company or group, if applicable.
- 18.6. The BSB may seek an independent analysis of the financial profile of the group.

Your organisation's staff

- 18.7. Tenderers must specify the number of total staff in your company / group. Tenderers must give a detailed breakdown of staff duties in relation to this ITT.

Your history, approach, vision and values

- 18.8. Tenderers must describe in brief terms your organisation's history and the history of provision of research services.

19. References

- 19.1. Tenderers must provide at least three references (contact name, title, e-mail address and telephone number) from existing customers who were provided with services

similar to those being contemplated by the ITT who would be suitable to act as referees.

- 19.2. Tenderers must confirm that they will allow the BSB to contact existing customers during the evaluation process to seek written or other references.
- 19.3. Tenderers should use their best endeavours to submit any additional evidence to verify their ability to fulfil this contract which may be requested by the BSB.
- 19.4. Tenderers must state whether any of their service contracts with other organisations, which involve services similar to those envisaged under this ITT, have been terminated early in the last three years and if so, tenderers must give details including any reasons for such termination.

20. Financial Tenderer Details

Cost and cost breakdown

- 20.1. Tenderers must include a detailed costing for the BSB CBT project, including the daily rate and respective role and contributions for people working on the BSB CBT project.
- 20.2. Tenderers must provide a detailed breakdown of the cost model they would prefer to use for the provision of the BSB CBT project. Tenderers must give information on their approach to the following:
 - The mechanics of how charges will be calculated for each aspect of the project;
 - The proposed payment profile over time;
 - The overall price for the whole project (split by service elements) indicating whether and how they will vary over the life of the contract, and the split between implementation and ongoing support charges;
 - The operation of change requests and their effect on charges;
 - The use of minimum annual charges or price caps; and
 - The impact of changes to activity levels or transaction volumes, if any.
- 20.3. Tenderers must set out clearly the basis on which prices have been calculated and wherever possible, producing information which would permit the BSB to calculate charge variations resulting from increased or reduced requirements, volumes or service levels. Tenderers should also illustrate where they envisage achieving savings.
- 20.4. All prices proposed by tenderers must make it clear whether any additional amounts will be sought from the BSB. Any additional amounts not specified will be assumed to be included in the stated price. Tenderers must be able to justify in full their pricing proposals as they relate to set-up and implementation costs and ongoing charges.
- 20.5. If any costs are not included in the price quoted, tenderers must identify these separately and specify the proposed commercial terms in relation to such items, on a time and materials basis or in accordance with some other method.

- 20.6. Tenderers must state whether they are prepared to provide their services at a fixed cost over the term of the contract which will be three years in the first instance but open to review and renewal. The need for services is ongoing and has no defined end date in the future. If applicable, tenderers must clearly specify any charges for the service which are not fixed, specifying how any variation may apply, including upper and lower limits.
- 20.7. Tenderers must confirm that all management requirements set out in the ITT are covered by this charge.
- 20.8. Tenderers must explain all assumptions made in their pricing proposals and the rationale behind them.
- 20.9. Tenderers must specify how future cost increases and savings are to be managed in the context of their continuous improvement programme.
- 20.10. Tenderers must describe how they decide what is included in their charges and for what they charge extra for example, documentation and manuals and on what basis.
- 20.11. Tenderers must specify how many hours are included in their normal working day and when their day starts and ends. Tenderers must state how their rates would change for hours worked outside of their normal day, if at all.

21. Tender Conditions

Responsibilities of Tenderers

- 21.1. The BSB relies on tenderers' own analysis and review of the information provided. Consequently, tenderers are solely responsible for obtaining the information which they consider is necessary in order to make decisions regarding the content of their tender and to undertake any investigations they consider necessary to verify any information provided to them during the procurement process.
- 21.2. Tenderers must form their own opinions, making such investigations and taking such guidance (including professional advice) as is appropriate regarding the services provided, without reliance upon any opinion or other information provided by the BSB or their advisers and representatives.
- 21.3. Tenderers should notify the BSB promptly of any perceived ambiguity, inconsistency or omission in this ITT, any of its associated documents and/or any other information issued to them during the procurement process.

Confidentiality

- 21.4. The contents of this ITT, together with all other information, materials, specifications or other documents provided by the BSB or prepared by the tenderers specifically for the BSB, shall be treated at all times as confidential by the tenderers.
- 21.5. Tenderers shall not disclose any such information, materials, specifications or other documents to any third parties, or to any other part of the tenderers' group, or use them for any purpose other than for the preparation and submission of a response to

this ITT. Tenderers must not publicise the BSB's name or the tender without the prior written consent of the BSB.

- 21.6. The BSB in turn confirms that it shall treat all information provided to it by the tenderer as confidential and further confirms that such information will not be disclosed by the BSB to any third parties, other than to members of the BSB committees and advisers and consultants to the BSB.
- 21.7. Tenderers shall ensure that all third parties to whom disclosure is made shall keep any such information, materials, specifications or other documents confidential and not disclose them to any other third party, except as set out above.
- 21.8. Tenderers must seek the approval of the BSB before providing to third parties any information provided in confidence by the BSB or its professional advisers and must maintain a register of all employees and third parties who have or have had access to such information. If so requested by the BSB, tenderers must make such a register available for immediate inspection by the BSB or its duly authorised representatives. The sharing of this information with any third-party sub-contractor is also bound by the provisions.
- 21.9. The provider is required to tell and assure the people it contacts with that it will not pass information through to the BSB that could identify a particular person or company.

Intellectual Property

- 21.10. All intellectual property rights in this ITT and all materials provided by the BSB or its professional advisers in connection with this ITT are, and shall remain, the property of the BSB or its direct or indirect (licensing through an intermediary) licensors.
- 21.11. Tenderers must ensure that any contracts or agreements include provision for ownership and use of intellectual property. Intellectual property includes but is not limited to:
- research data and other findings of research;
 - ideas;
 - processes;
 - software;
 - hardware;
 - apparatus and equipment;
 - substances and materials; and
 - artistic and literary works, including academic and scientific publications.
- 21.12. Tenderers must comply with any additional conditions relating to intellectual property required by the BSB.
- 21.13. Tenderers must discuss any issues that might arise relating to intellectual property at the earliest opportunity and agree jointly with the BSB in advance how they might be addressed, communicating any decisions to all members of the project team.

Warning / disclaimers

21.14. As part of this tender process the BSB makes no obligations in any way to:

- Pay any vendor for any ITT response; or
- Award the contract with the lowest price to any bidder; or
- Accept any ITT information received from vendors; or
- Include vendors responding to this ITT in any future invitation; or
- Confer any contractual rights or obligations to any vendors; or
- Any other commitment to vendors whatsoever.

21.15. Following the submission stage, shortlisted suppliers will be invited to make a presentation to the ITT procurement panel before a final decision is made.

21.16. Nothing contained in this ITT or any other communication made between the BSB or its representatives and any party or part thereof shall constitute an agreement, contract or representation between the BSB and any other party. Receipt by the tenderer of this ITT does not imply the existence of a contract or commitment by or with the BSB for any purpose and tenderers should note that this ITT may not result in the award of any business.

21.17. The BSB reserves the right to change any aspect of, or cease, the tender process at any time. The information contained in this ITT is subject to updating and amendment in the future and is necessarily selective. It does not purport to contain all of the information which a tenderer may require. While the BSB has taken all reasonable steps to ensure, as at the date of this document, that the facts which are contained in this ITT are true and accurate in all material respects, the BSB does not make any representation or warranty as to the accuracy or completeness or otherwise of this ITT, or the reasonableness of any assumptions on which this document may be based. All information supplied by the BSB to the tenderers, including that contained in this ITT, is subject to the Tenderer's own due diligence.

21.18. The BSB accepts no liability to tenderers whatsoever and however arising and whether resulting from the use of this ITT, or any omissions from or deficiencies in this document.

21.19. The BSB may exclude any tenderers from the tender process who have been found to be in breach of confidentiality or intellectual property rights and may pursue any remedy or take any other action for breach, as it considers appropriate.

21.20. The BSB shall have the right, at its request, to require unsuccessful tenderers immediately to return or destroy all documents and other materials and working papers relating to the BSB CBT project and all copies thereof and to destroy all electronic copies. The tenderers shall, at the BSB's request, be required to confirm in writing that all such information has been returned or destroyed.

21.21. The BSB may use the information included in a tenderer's response for any reasonable purpose connected with this ITT. In particular, once a tenderer has been excluded, the BSB reserves the right to use any ideas contained in that tenderer's bid in any on-going discussions with other tenderers but undertakes not to reveal the identity of the provider of such ideas.

21.22. Respondents should note that any quantities or volumes contained in this ITT are indicative only and any future quantities or volumes may vary from those stated.

21.23. It is the responsibility of tenderers to obtain for themselves at their own expense all additional information necessary for the preparation of their response to this ITT. No claims of insufficient knowledge will be entertained.

21.24. Any tenderer who directly or indirectly canvasses any employee of the BSB, or any member of their respective committees or working parties concerning the award of the contract will be disqualified. All tenderers are recommended to seek their own financial and legal advice.

Collaborative working

21.25. Tenderers will pay particular attention to aspects of the BSB CBT project which include candidates who require reasonable adjustments due to the legal and ethical requirements and other guidelines that may apply.

21.26. Tenderers will work with the BSB and the different stakeholders to ensure the agreement of, and compliance with, common standards and procedures for the delivery of the BSB CBT project, including the resolution of any issues or problems that might arise.

21.27. Tenderers must be aware of any contractual requirements involving partner organisations, seeking guidance and assistance where necessary and reporting any concerns or irregularities to an appropriate person(s) as soon as they become aware of them.

21.28. Tenderers must try to anticipate any issues that might arise as a result of working collaboratively with the BSB and agree jointly in advance how they might be addressed, communicating any decisions to all members of the examinations team.

22. Data Management

Collection and retention of data

22.1. Tenderers must comply with all legal and organisational requirements for the collection, use and storage of data, and specifically with the requirements of data protection legislation in relation to personal data. The data protection legislation includes the EU General Data Protection Regulation (EU GDPR) the UK GDPR, the Privacy and Electronic Communications Regulations 2003, the Regulation of Investigatory Powers Act 2000, and all applicable laws and regulations relating to processing of personal data and privacy.

22.2. Tenderers must also maintain confidentiality where undertakings have been made to third parties or to protect intellectual property rights. Tenderers must ensure that data relating to examinations is available for discussion with the BSB and stakeholders, subject to any existing agreements on confidentiality.

22.3. Tenderers must ensure that data is kept intact for any legally or contractually specified period and otherwise for three years at least, subject to any ethical or other requirements, from the end of the project. It must be kept in a form that would enable retrieval by a third party, subject to limitations imposed by legislation and general principles of confidentiality.

- 22.4. If data is to be deleted or destroyed, either because its agreed period of retention has expired or for legal reasons, it must be done so in accordance with all legal, with particular concern for confidentiality and security.
- 22.5. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, tenderers will implement appropriate technical and organisational measures to protect the personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure, to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR. .
- 22.6. Tenderers must consider how data will be gathered, analysed and managed, and how and in what form relevant data will eventually be made available to others at an early stage of the design of the project.
- 22.7. Any staff who have access to the personal data as part of the project must be reliable, have undergone adequate training in handling personal data, and subject to a duty of confidentiality and tenderers should ensure that access is strictly limited to those individuals who need to know/access personal data.
- 22.8. Sub-contractors can only be engaged as part of the project with the written consent of the BSB and imposing the same data protection obligations as apply to the successful contractor.
- 22.9. Tenderers must make all the data collected available to the BSB and supply details relating to data protection as requested by the BSB.

Monitoring and audit

- 22.10. Tenderers must cooperate with the monitoring and audit of the BSB CBT project by the BSB and other applicable bodies and undertake such when required.
- 22.11. Tenderers must maintain confidentiality and must inform the BSB of any breach of confidentiality and misconduct, such as misuse of data (including plagiarism, fabrication, misinterpretation or falsification).

Annex 1: Background to the BSB CBT project

We are looking for a tool which will enable us to conduct professional examinations for trainee barristers in Professional Ethics, Civil Litigation and Criminal Litigation. For Civil and Criminal Litigation, we require a tool which will host both remote authoring of questions and question banking. For Professional Ethics, we are looking for an end to end solution which will comprise remote authoring of questions, remote question banking, computer-based testing (including candidate registration and test delivery), remote marking, post-processing of examinations.

Professional Ethics

As part of our reforms to training for the Bar, the centrally assessed Professional Ethics exam will be taken during pupillage (by those who have passed a postgraduate course in Law, been called to the Bar and are undertaking a period of supervised work-based learning). Details of this can be found on our website:

<https://www.barstandardsboard.org.uk/training-qualification/becoming-a-barrister/pupillage-component/intro-of-professional-ethics-assessment.html>

The above link also includes details of the paper we published on our approach to assessing Ethics during pupillage.

We require a cloud-based remote authoring tool that will allow our commissioned question writers to write questions for the Professional Ethics exam, based on our syllabus. Each question will be categorised to a few syllabus areas.

The remote authoring tool should allow question writers to submit their questions for review. Every question submitted by a question writer should be reviewed by at least two people. Upon submission the first reviewer should be automatically alerted that there is a question ready for review; once their review is complete, the second reviewer should then be automatically alerted that there is a question ready for review. Both reviewers should use the remote authoring tool to review the question and record their edits, their notes and their feedback.

Following review, the software should allow for the question to either be accepted, rejected or sent back to the question writer for further editing. The remote authoring tool should allow reviewers to send feedback to question writers, whether the question is accepted, rejected or requires editing before resubmission. The question writer should automatically be notified that their question has been reviewed and they should be able to log in and view their feedback.

We then need to be able to add accepted questions to a Question Bank. Questions within the Question Bank will continue to be updated and should therefore remain editable.

Once marked, our independent psychometrician calculates statistics for each question such as reliability, contribution, mean score, standard deviation, etc. These statistics are referred to when compiling new examinations. We therefore need the facility to import such question statistics into the Question Bank so that the entry for each question contains all its relevant performance statistics.

When compiling exam papers, we will need to select questions from the Question Bank based on their syllabus areas and the performance data as outlined above. Once compiled we would like the Question Bank to export the paper in full in Word format.

The Bar Standards Board uses Microsoft's customer relationship management (CRM) system, and all candidates for the Professional Ethics exam will be registered on our CRM. Your system needs to be able to import data from and export data to our CRM. Data can be imported and exported using Excel or comma separated value (CSV) files. As candidates will be located throughout England and Wales, they will be required to register themselves for the examination and may need to pay a fee online.

The BSB has a duty to ensure that its assessments are as accessible as possible to those who need reasonable adjustments. The CBT system must therefore be able to accommodate reasonable adjustments for as many candidates as possible and the BSB will seek to make alternative arrangements for those whose reasonable adjustments cannot be accommodated. The registration process should allow candidates to apply for reasonable adjustments (RAs), such as but not limited to: extra time, scheduled breaks, different colour fonts and screen backgrounds, different sizes and styles of font, and screen reader software such as JAWS. While candidates with RAs will need to be accommodated at both test centres or via remote proctoring, we would like the computer-based testing software to be able to accommodate the adjustments listed above.

The Ethics examinations will take place in January, April and August each year. Candidates are to take the exam via computer-based testing, and all candidates will sit the exam at the same time and on the same day. It is possible for start times to be staggered if necessary, although it should be noted that candidate numbers for each sitting are likely to be relatively low (fewer than 200).

Once candidates have arrived at the test centre/checked in online, there will be a compulsory ID check. The examination is open book and so your system needs to be locked down to everything except the permitted materials. Permitted material is the BSB Handbook which can be accessed on our website. Some RA candidates sitting at a test centre may need to use a printed copy of the BSB Handbook.

The Ethics examination will consist of 12 short answer questions (SAQs). In their written responses, candidates will be required to demonstrate competent knowledge and application of the syllabus, including resolution of ethical issues. There will be a total of 30 available marks for each SAQ or 'item': a maximum of 10 marks for Knowledge, and a maximum of 20 marks for Application. In order to achieve a pass, candidates must obtain a minimum of 10 marks in Application in at least six of the 12 items.

Candidates will subsequently be graded as either Competent or Not (Yet) Competent or each item, and must demonstrate competence in at least six of the 12 items in order to secure a pass.

The Ethics examination will be three hours long. Candidates should be presented with each item in order and be able to type their responses accordingly in free text. Candidates must be able to make rough notes, move freely (forwards and backwards) between items and be able to clearly see how much time they have remaining.

Marking

It is important that the software that we adopt for the marking of the Professional Ethics examination is future fit and is able to manage data efficiently. We have also considered the way in which the software that we choose can work with the requirements of the CRM and have come up with the following list of criteria:

1. Users and permissions
 - a. Allow up to 100 users
 - b. Individual access for users
 - c. Different permission levels according to user type
 - i. Allow the administrator(s) to restrict access to all users at all levels
 - ii. Allow the administrator(s) to monitor the overall marking progress at all levels
 - iii. Allow the administrator(s) to run validity reports during marking to spot anomalies
 - iv. Allow the Team Leaders oversight and carry moderation of their team members' marking
2. Marking set up
 - a. Ability to import and amend mark scheme
 - b. Ability to map SAQ to syllabus/Handbook
 - c. Ability to bulk allocate marking
 - d. Ability to add/remove scripts at any stage of marking
 - e. Allow assignment of "calibration scripts" to monitor validity of marking on an item (marked by the Examiners)
 - f. Allow Team Leaders to take over any of their team members' marking if needed
 - g. Set and allocate sample, first and second marking events for the same sit
 - h. Ability to set the exam to "go live" for marking at a set date/time in the future
 - i. Ability to close the exam
 - j. Flag any scripts that have already been allocated for marking on a particular SAQ
 - k. Ability to input pass mark and automatically calculate pass rates
 - l. Keep audit trail of changes on mark scheme and marking
3. Marking requirements
 - a. Allow uploading of evidence if exam is taken outside of CBT (.csv or .pdf format)
 - b. Side by side marking (displaying both evidence and mark scheme)
 - c. Ability to update the mark scheme after sample marking takes place
 - d. Restrict marking to one allocated SAQ for each marker
 - e. Allow marking approach (per student, per SAQ component)
 - f. Allow markers to review their marking before submission
 - g. Allow blind second marking (all candidate scripts will be marked twice; blind marking means the second marker does not see the first marker's marks)
 - h. Allow reallocation of scripts to a different marker following moderation processes
 - i. Allow markers to add notes/feedback to candidates while marking
 - j. Ability to identify outlying markers (noting that a team of markers may be as small as 4)

4. Exporting data

- a. Export data and reports at all levels to assist with checking marking progress, marker efficiency and producing exam board data and reports
 - i. Allow selection of data to be exported (e.g. per sit, per process)
 - ii. Provide breakdown exports per marker, per student and per SAQ component, listing marks against the bullet points in the mark scheme
 - iii. Export statistical data on performance of SAQs/Exam
 - iv. Export first/second marking side by side (in line with ii), with the option to select better of two marks
 - v. Export list of candidates and existing evidence for each student (per SAQ)
 - vi. Export list of marking allocated to markers (per marker)
 - vii. Reports to be user friendly
 - viii. Ability to provide meaningful feedback to candidates to help them understand their areas of weakness (one page per candidate)

5. Communication and Support

- a. System to communicate with users
 - i. Remind markers of what is outstanding at certain intervals (by email)
 - ii. Ability to raise a script to the Team Leader (e.g. for illegibility issues for handwritten scripts) and allow TL to remark
 - iii. Allow markers to see their full allocation and what is marked/outstanding
 - iv. Allow markers to flag a script for review (for second marker)

Civil Litigation and Criminal Litigation: We require remote authoring and remote question banking

Our Bar Training Civil Litigation and Criminal Litigation examinations are multiple choice exams. Criminal Litigation consists of a mix of 75 single best answer (SBA) and multiple-choice questions (MCQ). Civil Litigation is split into two exam papers. Paper 1 consists of a mix of 50 SBAs and MCQs. Paper 2 consists of a mix of five standalone SBA/MCQs, followed by seven rolling case scenarios, each consisting of five SBA/MCQs. Paper 2 therefore consists of 40 questions in total. Paper 2 is open book.

It should be noted that we will also be running Civil and Criminal Litigation exams in their old format, BPTC, in 2021. For BPTC, the Civil Litigation exam is in the same format as the Criminal Litigation exam (i.e. 75 standalone multiple-choice questions).

We require a cloud-based remote authoring tool that will allow our commissioned question writers to write both standalone questions and rolling case scenarios for the Civil and Criminal Litigation exams, based on our syllabi. Each standalone question will be categorised according to a specific syllabus area, of which there are up to 30 for each subject. SBA/MCQs within rolling case scenarios will also need to be categorised in the same way.

The remote authoring tool should allow question writers to submit their questions for review. Every question submitted by a question writer should be reviewed by at least two people. Upon submission the first reviewer should be automatically alerted that there is a question ready for review; once their review is complete, the second reviewer should then be automatically alerted that there is a question ready for review. Both reviewers should use the remote authoring tool to review the question and record their edits, their notes and their feedback.

Following review, the software should allow for the question to either be accepted, rejected or sent back to the question writer for further editing. The remote authoring tool should allow reviewers to send feedback to question writers, whether the question is accepted, rejected or requires editing before resubmission. The question writer should automatically be notified that their question has been reviewed and they should be able to log in and view their feedback.

We then need to be able to add accepted questions to a Question Bank. Questions within the Question Bank will continue to be updated and should therefore remain editable.

Our exams are marked by scanning software which calculates statistics for each question such as facility value, item discrimination, point biserial, answer frequency and discrimination, mean score, standard deviation, etc. These statistics are referred to when compiling new examinations. We therefore need the facility to import such question statistics into the Question Bank so that the entry for each question contains all its relevant performance statistics.

When compiling exam papers, we will need to select questions from the Question Bank based on their syllabus area and the performance data as outlined above. Once compiled we would like the Question Bank to export the paper in full in Word format.