



LBRO ref: Risk/Risk of Noncompliance Research – stage 4

12 January 2012

## **INVITATION TO TENDER TO PRODUCE AND ANALYSE CASE STUDIES ON INCIDENTS OF NON-COMPLIANCE IN ORDER TO UNDERSTAND HOW AND WHERE RISKS ARE VISIBLE TO REGULATORS**

### **1. ABOUT THE LOCAL BETTER REGULATION OFFICE**

The Local Better Regulation Office (LBRO) was created in 2007 and given its statutory powers in the Regulatory Enforcement and Sanctions Act 2008. LBRO operates in a unique position to create the conditions for local authorities to deliver 'better regulation' and to foster a better understanding between local authorities and businesses. LBRO's remit covers the work of local authority environmental health, trading standards, licensing and fire safety functions.

There is an Order which is currently in Parliament that, subject to successful passage, will result in the Local Better Regulation Office being dissolved and the continuing functions will transfer to the Department for Business, Innovation and Skills (BIS). Debates on the Order are currently scheduled for January 2012 and it is anticipated that the transfer will occur on 31<sup>st</sup> March 2012. The transferred functions from LBRO will be delivered by a distinct unit in BIS, the Better Regulation Delivery Office (BRDO).

### **2. BACKGROUND**

LBRO has agreed an approach in principle with the [World Class Coalition](#) to examine how a common approach to risk assessment could provide a foundation for better information and intelligence sharing across different regulatory functions within a single local authority, across local authorities, and between local authorities and national regulators. This would improve the robustness of the evidence available to support the assessment of risk and subsequent regulatory response of local authorities. The approach has the potential to reduce duplication, give the flexibility to work across current regulatory boundaries, and increase impact by focusing scarce regulatory resource where it is most needed.

However, to support the development and implementation of this approach, there is a need to establish the extent to which a business' compliance performance in relation to a particular regulated area is indicative of the level of performance that can be expected in relation to other regulated areas. Working toward this, LBRO would like to commission a suite of case studies looking at serious cases of non-compliance across a variety of businesses. The intention of this work is not to investigate the incidents themselves, but rather to use them as a test-bed to improve our understanding of how sharing risk rating data between regulators might be helpful

towards targeting interventions where there is a risk of a major failing on the part of the business or duty holder.

### **3. RESEARCH DESCRIPTION**

You are invited to submit a proposal for up to 20 anonymised case studies looking at incidents resulting from a business' (or duty-holder's) failure to comply with relevant legislation. Case studies should look at incidents of varying types and complexity, across a range of regulatory functions, and should not necessarily focus on incidents with the most serious outcomes. The purpose is to conduct a post-hoc examination of risk ratings given by different regulators to the businesses in question, to see how visible the risk of non-compliance was across the regulatory system.

The case studies will need to look at serious cases of non-compliance within businesses closely regulated by at least two regulators.

The purpose of the case studies will be to examine to what extent the sharing of a regulator's confidence in the management of a business across areas of regulation could support more targeted interventions, particularly with regard to the prevention and handling of failure to comply.

In addition to the individual cases, the final output should include a summary of key findings and analysis drawn from across the studies. LBRO would like work to begin in early 2012. There is some flexibility on the deadline for delivery of the final report and case studies; however, we would like the contractor to undertake as much work as possible before 30 March 2012.

LBRO envisages that this project will involve engaging with local and national regulators in order to identify appropriate case studies and collect the data necessary to undertake a thorough analysis of confidence in management assessments and risk management as they relate to the incidents of non-compliance in question. Given the volume of data required and the potentially sensitive nature of the incidents involved, the contractor will need to be highly skilled in engagement, project management and data collection with a wide variety of stakeholders, and should detail how they will minimize burdens on these stakeholders during the course of the project.

LBRO does not foresee any major data protection issues, but the contractor will need to present a research plan which demonstrates an understanding of any potential data protection issues and how they will be addressed.

This will be the fourth stage of a multi-stage research project on a common approach to risk assessment. Reports from stages one and two are listed in this document under Key References. LBRO expect to contract stage three in late January 2012. LBRO will work with the contractor and research team in the project planning phase to agree detailed outputs and ensure this stage of research fits in with the wider project.

### **4. SCOPE**

The project should focus on business sectors regulated by two or more regulators from the following services / regulators:

- Local Authority Trading Standards
- Local Authority Environmental Health (includes health and safety, food safety, and pollution prevention and control)
- Local Authority Licensing
- Local Authority Fire Safety
- Health and Safety Executive
- Environment Agency

The reasons for selecting these regulatory agencies are first, they all (to a greater or lesser extent) have a focus on business premises and use inspections as a key way to assess compliance; second, they operate across a number of business sectors so the likelihood of two of them risk assessing the same business is high.

The research team should be aware of the requirements of other national regulators who set standards, risk assessment and inspection frameworks and achieve their objectives through local authority delivery, for example the Food Standards Agency and the Office of Fair Trading.

In terms of identifying incidents, and then selecting those suitable for case study, we propose that the contractor consult with local and national regulators via an initial canvass for examples. We would like the contractor to develop evaluation criteria for selection of case studies and to also demonstrate they have relevant knowledge and networks in order to assist in the identification process while minimizing burdens on regulators.

It would be desirable to have at least one case study involving each of the listed services / regulators in the completed set, but this is not essential provided an acceptable balance across the services has been achieved.

LBRO will involve key stakeholders from the [World Class Coalition](#) in project planning and case study selection.

## 5. KEY REFERENCES

[A Common Approach to Risk Assessment](#), LBRO, 2010

Developing a World Class Local Authority Regulatory Services System: Risk Assessment Scoping Paper, LBRO, 2008 (available by request)

The Prospect of Increased Commonality in Risk Assessment Schemes used by LARS, LBRO, 2009 (available by request)

Research into compliance across areas of regulatory activity: Literature review, Greenstreet Berman Ltd for the LBRO, 2011 (available by request)

Design and pilot research for LBRO's common risk assessment framework, Greenstreet Berman Ltd for the LBRO, 2011 (available by request)

LBRO may be able to provide additional sources of data once a project plan is agreed.

## 6. DELIVERABLES

LBRO will work collaboratively with the research team during the project planning for agree detailed outputs and expectations.

The work should produce:

- Up to 20 anonymised case studies on serious incidents of non-compliance within businesses; and
- An analysis of the case studies and a summary of key findings.

## **7. GOVERNANCE AND ACCOUNTABILITIES**

The contractor will be accountable to LBRO via the project manager and programme manager in the first instance.

- Programme Manager, Professional Standards & Risk– Phil Preece
- Project Manager – Erica Butler

It is expected that the successful contractor will identify a project manager and quality control manager who will keep in touch with LBRO's project manager on progress with the project.

Fortnightly highlight reports to LBRO's Project Manager are expected. These should consist of:

- Project progress – including what's been achieved since the last highlight report and what you hope to achieve before the next one;
- Key monitoring information such as expenditure and budget status;
- Potential issues that might have an impact on the project and how they might be addressed;
- Identified decisions needed from LBRO or areas where LBRO could offer assistance; and
- Any possible risks identified to the success of the project or to the delivery mechanisms, with mitigating actions to support.

## **8. FORMAT OF RESPONSE**

Proposals to address the project specification should demonstrate your understanding of the requirement and set out your proposed approach to the work. This should include (but should not be limited to):

- Your own thoughts about how best to examine ways in which risk ratings might be more effectively shared and used across areas of regulation, and
- Your approach to managing engagement with and securing data from local authorities and national regulators on potentially sensitive subject matter while minimizing burdens on these key stakeholders.

In addition to your proposals to address the project specification and criteria (given below), the tender must also include:

1. An executive summary outlining your approach to the requirement;

2. Demonstration of your understanding of the requirement, setting out an approach to all aspects of the requirement and specifying the resources to be used;
3. A quote for the finished product and key milestones, with details of what that quote will cover and the number of days' work proposed;
4. An indication of when work could commence and timeframe for completion of the project;
5. The names of consultants carrying out the work and their appropriate day rates;
6. Name an appropriate person who will act as project manager;
7. Name an appropriate person who will act as quality control manager;
8. An outline of your organisation's history; its corporate structure; and the range of services it provides (if a consortium bid, an outline of the lead organisation plus summaries of the others);
9. The names, role, experience (particularly of the operation of Government) and qualifications of those who will be involved in providing the service;
10. Previous experience in providing services in this area (You may include a sample case study in your proposal, but this is not required); and
11. Details of 2 references from organisations, within both the public and private sectors where available, to whom you have supplied goods/services of a similar nature during the last 12 months.

The following documents are relevant to this invitation and can be accessed via the LBRO website:

- LBRO standard terms and conditions of contract
- Price and delivery schedule (PF01) (please complete and return)
- A formal declaration of your offer (PF02) (please complete and return)
- Statement of non-collusion (PF03) (please complete and return)
- Supplier Information Form (PF04) (please complete and return)

LBRO may, from time to time, request management information from its contractors which will include, but will not be limited to, information concerning contractor compliance with:

- The Equalities Act 2010

LBRO intend to commence the work in February 2012. However, in the event of a delay, LBRO ask that your proposal and quote should remain open for acceptance for a minimum period of three months.

## **9. EVALUATION CRITERIA**

Your tender will be evaluated against the criteria listed below. Whilst we do not wish to be prescriptive or discourage innovative approaches to meeting the project specification, the contractor will need to demonstrate:

- A clear understanding and interpretation of the specification (20%)
  - This covers understanding of the proposal and bidders have thought around the proposal in terms of addressing the specific issues outlined above. It also includes marks for innovation and justification of new ideas outside the scope of the ITT.

- In particular, this also covers understanding of risk assessment and risk rating schemes.
- Demonstration of methodology and process (20%)
  - The proposal must include a clear outline of methodology, including how consistency will be maintained between the case studies and how the data gathering will be structured and analysed.
  - The proposal should provide evidence of experience using appropriate information gathering techniques with business, local authority, and national regulator stakeholders.
- Value for money (20%)
  - LBRO will seek maximum benefit from the goods and services provided within the resources available.
  - LBRO will consider quality, cost, resource use, and fitness for purpose when assessing the proposal's value for money.
  - LBRO would like to see evidence of thinking about making best use of existing data and minimizing burdens on regulators and other stakeholders.
- Quality assurance (20%)
  - We expect the bid to contain details of quality assurance and how the contractor will look to ensure the work is accurate, robustly evidenced, and that it meets LBRO's requirements.
  - The bid should identify risks to delivery (in terms of both time and specification/quality) and include plans for mitigation (mandatory).
  - The bidder should demonstrate an ability to complete a substantial part of the work by 30 March 2012, and that relevant project planning has been done and key milestones identified.
- Organisation background (20%)
  - The bidder should be skilled at using a mix of methodologies, and synthesising findings from multiple sources
  - The organisation and staff should demonstrate experience in conducting similar work in the field of regulation.

## **10. SELECTION PROCESS**

Upon receipt of proposals and accompanying documents, LBRO will examine the proposals for completeness and may seek clarification where necessary.

A proposal determined as not substantially fulfilling the conditions in this document will be rejected.

The proposal will inform negotiations prior to contract award, but will not form the sole basis and LBRO may wish to amend the specification. LBRO is looking to work collaboratively with the preferred supplier prior to contract award and during the entire project.

All information provided by companies will be treated as 'commercial in confidence' by LBRO and will not be disclosed to any third party without the prior written permission of companies.

## **11. HOW TO RESPOND**

Please submit your proposal and all documents by email to:

[tenders@lbro.org.uk](mailto:tenders@lbro.org.uk) by 12:00 on Monday, 06 February 2012.

Or provide 3 copies of your tender and all documents (one set should be clearly marked "original") in hardcopy to:

Kevin Griffiths

Local Better Regulation Office

2nd Floor

The Axis

10 Holliday Street

Birmingham

B1 1TG

Tel: 0121 226 4030

Any proposal received after the deadline for receipt may be rejected and returned.

Any enquiries relating to this request for proposals should be emailed to [kevin.griffiths@lbro.org.uk](mailto:kevin.griffiths@lbro.org.uk) and [ash.panchal@lbro.org.uk](mailto:ash.panchal@lbro.org.uk) no later than 17:00 on 31 January 2012.