

The Ministry of Finance has received a number of questions regarding the procedure for conclusion of framework agreements for procedural representation and legal advice. The Ministry of Finance provides answers below to each question.

1. How "lead counsel" is defined?

A lead counsel is a partner who had significant responsibility for the preparation of the submissions in the case and did pleadings at oral hearings.

2. How a "successfully concluded" case is defined? In particular, if a partner represented a Respondent State in a claim worth USD 5 billion, but the award to the investor Claimant was only USD 20 million, would this be regarded as successful?

A successfully concluded case is a case where, if the counsel acted for the claimant, all claims were granted and the full amount of damages was awarded, and, if the counsel acted for the respondent, all claims were rejected and the full amount of damages was denied.

However, the Ministry of Finance would also consider a case to be a successfully concluded case in the following circumstances:

a) if a counsel acted for the claimant, the predominant part of the claims was granted and a substantial part of the claimed damages was awarded.

b) if a counsel acted for a respondent, the predominant part of the claims was rejected and/or the amount of the claimed damages was significantly reduced.

In support, the law firm tenderer should provide the award or relevant excerpts thereof and an explanation why it considers the case to be a significant success.

3. What documents will be sufficient to show beyond any doubt that the relevant partners represented a party in the specified cases and that the representation was successful? Will press reports on a case or reference letters from clients be sufficient?

The required documents are explained in Section III.2.5 of the Documentation. Press reports on a case and/or reference letters from clients do not fall in the scope of that section.

As stated in Section III.2.5. of the Documentation, the Ministry of Finance will observe the confidentiality of the documents provided and will use them only for the purposes of this procedure.

4. Will settled cases be considered to constitute successfully completed cases that will count towards the partner qualification criteria under II.1.2 of the Instructions and towards the total number of arbitration cases in the final formula evaluation of tenders under 2.1 of the Methodology?

Settled cases will not be considered as successfully completed cases. The reason for this is that it is very difficult to evaluate whether a particular settlement was successful without

knowing the full details of the particular case and making a time-consuming analysis of the positions of the parties.

5. Is it allowed to provide a legal opinion under Section III.2.4 of the Documentation by a notary public, instead of a practicing solicitor, for law firm established in the United Kingdom?

Section III.2.4 of the Documentation requires a legal opinion by a lawyer practicing in the jurisdiction of the law firm tenderer. If a notary public in the United Kingdom is “a lawyer practicing” in the United Kingdom, then a notary public would fall in the scope of that section.