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Award

New Oncology Wing (PFI Scheme)

Leeds Teaching Hospitals NHS Trust

F15: Voluntary ex ante transparency notice

Notice identifier: 2023/S 000-001868

Procurement identifier (OCID): ocds-h6vhtk-039956

Published 20 January 2023, 3:05pm

Section I: Contracting authority/entity

I.1) Name and addresses

Leeds Teaching Hospitals NHS Trust

Great George Street

Leeds

LS1 3EX

Contact

John Smith

Email

j.smith115@nhs.net

Country

United Kingdom

Region code

UKE42 - Leeds

Internet address(es)

Main address

<https://www.leedsth.nhs.uk>

Buyer's address

<https://www.leedsth.nhs.uk>

I.4) Type of the contracting authority

Body governed by public law

I.5) Main activity

Health

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

New Oncology Wing (PFI Scheme)

II.1.2) Main CPV code

- 50700000 - Repair and maintenance services of building installations

II.1.3) Type of contract

Services

II.1.4) Short description

In 2001 the Trust ran a competitive procurement process and procured a Project Co to enter into a project agreement relating to the design and build of an oncology centre at St James's University Hospital and the provision of related services ("PFI").

II.1.6) Information about lots

This contract is divided into lots: No

II.1.7) Total value of the procurement (excluding VAT)

Value excluding VAT: £597,000,000

II.2) Description

II.2.2) Additional CPV code(s)

- 50700000 - Repair and maintenance services of building installations
- 33100000 - Medical equipments
- 48814000 - Medical information systems
- 50421000 - Repair and maintenance services of medical equipment
- 45215100 - Construction work for buildings relating to health

II.2.3) Place of performance

NUTS codes

- UKE42 - Leeds

II.2.4) Description of the procurement

The OJEU Notice published by the Trust on 18 October 2001 described the project as:

“...the design, build, finance and ongoing maintenance of a large new wing for medical and surgical oncology and associated services. The project includes building maintenance services – operational services such as domestics, catering and portering are not included in the project. The supply and maintenance of equipment (including IT clinical treatment systems and PACS) will form an integral and substantial element of the project. The new wing will include linear accelerator bunkers, in-patient beds, operating theatres and critical care beds. The value of the services is not yet known. The estimated capital value of the project is approximately £136 million.”

II.2.5) Award criteria

Price

II.2.11) Information about options

Options: Yes

Description of options

Option to extend the term length of the managed equipment service contract (“MES Contract”) in schedule 13, clause 12 PFI Agreement.

II.2.13) Information about European Union Funds

The procurement is related to a project and/or programme financed by European Union funds: No

II.2.14) Additional information

The MES Contract is an integrated part of the PFI. The term of the PFI is 33 years and the initial term of the MES Contract is 15 years from the ‘Actual Completion Date’ of 14 December 2007. The PFI provides for a possible extension to the MES Contract in the form of a clear, precise and unequivocal review clause.

Section V.2.1) below is the date of the decision to award the Main Extension

Section IV. Procedure

IV.1) Description

IV.1.1) Type of procedure

Award of a contract without prior publication of a call for competition in the cases listed below

- The procurement falls outside the scope of application of the regulations

Explanation:

The 'Equipment Term' is defined in schedule 1 of the PFI Agreement as 15 years. The Trust's position is that the extension to the MES contract is a permitted modification under Regulation 72(1)(a) Public Contract Regulations 2015 (as amended) ("PCR 2015"). The PFI confers an opportunity for the Project Co to deliver MES services for the full 33 years by virtue of a clear, precise and unequivocal contractual clause in schedule 13, clause 12 of the PFI, which permits the Trust to extend the 'Equipment Term' thereby extending the responsibilities of Project Co for the delivery of MES services.

Schedule 13, clause 12 of the PFI provides that at the end of the 'Equipment Term' the Trust has an option to extend:

"12 At the expiry of the Equipment Term, the Trust may, at its option, elect in respect of each item of Equipment to:-

...

12.2 extend the Equipment Term subject to agreement by the parties..."

Clause 12 does not limit the duration of the extension to the 'Equipment Term' and the Trust considers it is permitted to extend the MES Contract to the end of the term of the PFI. The Extended Period will be on the same terms and price as provided for in the initial term of the MES Contract therefore the economic balance of the arrangement is not in favour of the MES Contract provider.

The Contract Notice published on 18 October 2001 states the "33 years from financial close (although the medical equipment element is expected to run for 15 years)". The Trust considers that this is merely describing the initial term of the MES contract whereas the project documents awarded expressly provide for the MES Contract to be extended at the expiry of the initial 15 years. Therefore, the Trust does not consider the Contract Notice to preclude the possibility of an extension of the MES Contract within the 33-year duration of the PFI.

IV.1.8) Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: Yes

IV.2) Administrative information

IV.2.1) Previous publication concerning this procedure

Notice number: [2001/S 018-111111](#)

Section V. Award of contract/concession

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

16 January 2023

V.2.2) Information about tenders

The contract has been awarded to a group of economic operators: No

V.2.3) Name and address of the contractor/concessionaire

MEDIPASS HEALTHCARE LIMITED

First Floor, 67 Upper Berkeley Street, London, England

London

W1H 7QX

Country

United Kingdom

NUTS code

- UK - United Kingdom

National registration number

07463229

Internet address

<http://www.medipasshealthcare.com>

The contractor/concessionaire is an SME

Yes

V.2.4) Information on value of contract/lot/concession (excluding VAT)

Total value of the contract/lot/concession: £119,000,000

Section VI. Complementary information

VI.4) Procedures for review

VI.4.1) Review body

The High Court

Strand

London

WC2A 2LL

Email

generaloffice@administrativecourtoffice.justice.gov.uk

Country

United Kingdom

Internet address

<https://www.gov.uk/courts-tribunals>

VI.4.3) Review procedure

Precise information on deadline(s) for review procedures

In accordance with Regulation 88 to Regulation 102 of the PCR 2015 (particularly, Regulations 92, 93, 94 and 99 in relation to deadlines).

VI.4.4) Service from which information about the review procedure may be obtained

The High Court

The Strand

London

WC2A 2LL

Country

United Kingdom

Internet address

<https://www.judiciary.uk/courts-and-tribunals/high-court/>