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Award

Provision of Alternative Provider of Medical Services (APMS) Contract (North Shoebury)

Mid and South Essex Integrated Care Board

F15: Voluntary ex ante transparency notice

Notice identifier: 2023/S 000-009693

Procurement identifier (OCID): ocids-h6vhtk-03bc13

Published 3 April 2023, 4:03pm

Section I: Contracting authority/entity

I.1) Name and addresses

Mid and South Essex Integrated Care Board

Phoenix House, Christopher Martin Road

Basildon, Essex

SS14 3HG

Email

amy.wilson@attain.co.uk

Country

United Kingdom

Region code

UKH3 - Essex

Internet address(es)

Main address

<https://www.midandsouthessex.ics.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

Provision of Alternative Provider of Medical Services (APMS) Contract (North Shoebury)

Reference number

ACE-0596-2022-MSE

II.1.2) Main CPV code

- 85100000 - Health services

II.1.3) Type of contract

Services

II.1.4) Short description

This is a voluntary ex ante transparency notice and is intended to provide notice of the Mid and South Essex Integrated Care Board's (hereinafter referred to as "the Authority") intention (for reasons of extreme urgency brought about by events unforeseeable by the Authority), to award a contract for Primary Medical Services under Regulation 32 (2) (c) to the incumbent provider North Shoebury Surgery, covering the following general medical practice for a period of six (6) months:

- F81684 - North Shoebury Surgery - commencing 1st April 2023 until 30th September 2023 at an aggregate value of £285,670.

The Authority will observe a 10-day standstill from the date of publication of this VEAT, during which the ICB will not enter into any contractual arrangement.

The Service to which this procurement relates fall within Schedule 3 of the Public Contracts Regulations 2015 as amended by as amended by The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020, (the "Regulations"). As such, the Contracting Authority does not intend to hold itself bound by any of the Regulations, save those applicable to Schedule 3 Services.

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: £285,670

II.2) Description**II.2.2) Additional CPV code(s)**

- 85120000 - Medical practice and related services
- 85121000 - Medical practice services

II.2.3) Place of performance

NUTS codes

- UKH3 - Essex

Main site or place of performance

Southend, Essex

II.2.4) Description of the procurement

This is a Voluntary Ex Ante Transparency Notice to communicate to the market the Authority's clear intention to award a public contract to the incumbent provider, North Shoebury Surgery for F81684 North Shoebury Practice, by a negotiated procedure without prior publication, under regulation 32 (2)(c) of the Public Contract Regulations 2015 (as amended The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020). The Authority has made this decision for reasons of extreme urgency brought about by events unforeseeable by the Authority and can confirm that the time limits for the open or restricted procedures or competitive procedures with negotiation could not be complied with before 1st April 2023. This is to ensure that patient service continuity is maintained and to ensure that patients are not without a service from 1 April 2023, onwards.

The Mid and South Essex Integrated Care Board ("the Authority") concluded a multi-lot procurement process for Provision of Alternative Provider of Medical Services (APMS) Contracts under six Lots across Thurrock and Southend, which commenced on 6th October 2022. The Authority used an 'Open procedure' under Section 7 of the Public Contract Regulations 2015 (as amended The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020).

The 6 geographic Lots were as titled below:

- Lot 1 - Provision of Alternative Provider of Medical Services (APMS) Contract - Y00999

Oddfellows Hall and St Clements

- Lot 2 - Provision of Alternative Provider of Medical Services (APMS) Contract - F81110
Tilbury Health Centre (including Dilip and Chadwell)
- Lot 3 - Provision of Alternative Provider of Medical Services (APMS) Contract - Y02807
Thurrock Health Centre
- Lot 4 - Provision of Alternative Provider of Medical Services (APMS) Contract - F81206 -
Commonwealth Health Centre
- Lot 5 - Provision of Alternative Provider of Medical Services (APMS) Contract - Y00033
Purfleet Care Centre
- Lot 6 - Provision of Alternative Provider of Medical Services (APMS) Contract - F81684
North Shoebury Practice

Summary of events:

- Prior Information Notice published on 7th September 2022 via Find a Tender Service (FTS) and early engagement opportunity via Contracts Finder (CF)
- 2 MS Teams 'Live' Market Engagement Events were held on 21st & 22nd September 2022
- Contract Notice published on 6th October 2022 in FTS (Notice reference: 2022-043094) and subsequently on CF, with a deadline for submission of ITT's on 14th November 2022.
- 35 potential Bidders expressed an interest in the tender documentation, nine of which submitted a tender by the deadline. All bidders passed the Qualification envelope, one Bidder withdrew from the competition, and the Authority's Evaluation Panel therefore conducted the quality and price evaluation on eight remaining Bidders ITTs, across the six Lots.
- As a result of the procurement process, the contracts for Lots 1 to 6 were awarded based on Most Economically Advantageous Tender, to a single provider called Spirit Healthcare Ltd
- Outcome letters were issued on 22nd December 2022 and the Authority adopted a voluntary standstill period, which expired midnight on 6th January 2023.
- The Contract Award Notice was published in FTS on 18th January 2023 followed by a notice in CF.

The Authority's position is that the contracts for Lots 1 to 6 were awarded in strict accordance with the Regulations and in conformity with the information contained in the Contract Notice and to date, the Authority has not received a legal challenge to the outcome of the procurement from any Bidder.

Unfortunately, since 18th January, several factors during the Preferred Bidder Stage and Mobilisation Phase, have resulted in an unfortunate situation whereby the Contracts for each of the six Lots have not been executed between the Preferred Bidder and the Authority, with the totality of such issues only becoming apparent on 15 March 2023. This resulted in a minimal amount of time for the ICB to ensure safe and effective mobilisation prior to 1st April 2023 via alternative routes. Please review the Justification section for further details.

A decision has been made by the Preferred Bidder to step away from the Contract and not proceed to signature. As such, a decision has been made by the Authority to cancel the procurement and put in place emergency arrangements with incumbent providers to ensure continuity of provision of Primary Care Services for the population associated with each of the six lots across Southend and Thurrock. The ICB's key priority is ensuring safe and effective service continuity for the patient population associated with this practice from 1st April 2023.

II.2.5) Award criteria

Quality criterion - Name: Quality / Weighting: 100

Price - Weighting: 0

II.2.11) Information about options

Options: Yes

Description of options

An option for a 12 month extension is provided.

II.2.13) Information about European Union Funds

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

Section IV. Procedure

IV.1) Description

IV.1.1) Type of procedure

Negotiated without a prior call for competition

- Extreme urgency brought about by events unforeseeable for the contracting authority

Explanation:

Post- award, a decision was made by the Preferred Bidder on 15 March 2023 to step away from the awarded Contracts for all six Lots and not proceed to signature unless the ICB was willing provide the Preferred Bidder with a significant additional payment over and above the price submitted by the Preferred Bidder as part of its successful bid. This has resulted in the ICB's inability to conclude all six contracts with the Preferred Bidder within the 3 months set aside, after the implementation of its compliant procurement process undertaken and concluded by the ICB on 10th January.

As such, for reasons of extreme urgency brought about by these events which were unforeseeable by the Authority, the time limits for the open or restricted procedures or competitive procedures with negotiation (via an accelerated procurement procedure) could not be complied with before 1st April 2023.

There is an unacceptable risk that there is insufficient time to complete a robust contract mobilisation involving critical mobilisation risks such as TUPE implementation, in a lawful, robust and safe manner.

As such, the ICB intend to use all reasonable endeavours to safeguard continued service delivery, for all eligible patients for 1st April 2023, minimising any inconvenience likely to be caused to patients as a result of the discontinuation of Primary Care Services for this Lot.

The ICB is thus mitigating the unacceptable risk of service failure by engaging with the incumbent providers of each Lot and focusing on local integration and collaboration. It is deemed that only the incumbent providers for each Lot are technically capable of ensuring Service continuity within timescales available, with new service commencing from 1st April 2023.

Since speaking to the incumbents, it became apparent that the providers were unable to accept 12 month contracts, and so the ICB has been left with no option but to agree longer term contracts in order to ensure service continuity to patients that is in line with the ICB's and NHS strategic direction. Due to the extremely short timescales involved (a

new service was required from 1 April 2023, and notification from the Preferred Bidder was received on 15 March 2023, which only allowed the ICB 11 working days to seek alternative services from other providers), the ICB was left with no option but to agree to such terms during negotiations and is confident that this enables vital service development and improvement as well as enabling the future recommissioning of relevant services in the future, via undertaking a robust procurement exercise.

As such, a decision was made by the Authority to abandon the procurement (which was communicated to bidders accordingly) and put in place emergency arrangements with incumbent providers to ensure continuity of provision of Primary Care Services for the population associated with each of the six lots across Southend and Thurrock. The ICB's key priority is ensuring safe and effective service continuity for the patient population associated with these practices from 1st April 2023.

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

The procurement is covered by the Government Procurement Agreement: No

Section V. Award of contract/concession

Title

F81684 - North Shoebury Surgery

A contract/lot is awarded: Yes

V.2) Award of contract/concession

V.2.1) Date of conclusion of the contract

29 March 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

North Shoebury Surgery

Frobisher Way, Shoeburyness

Southend on Sea

SS3 8UT

Email

amy.wilson@attain.co.uk

Country

United Kingdom

NUTS code

- UKH3 - Essex

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: £285,670

V.2.5) Information about subcontracting

The contract/lot/concession is likely to be subcontracted

Section VI. Complementary information

VI.4) Procedures for review

VI.4.1) Review body

High Court of Justice of England and Wales

Strand

London

WC2A 2LL

Country

United Kingdom

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

Mid and South Essex Integrated Care Board

Basildon, Essex

Unit 10 Phoenix Court, Christopher Martin Road

SS14 3HG

Email

amy.wilson@attain.co.uk

Country

United Kingdom

Internet address

<https://www.midandsouthessex.ics.nhs.uk/>