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Contract

## **Supply of Soft Facilities Management Services Management Services at Kingston Hospital**

Kingston Hospital NHS Foundation Trust

F03: Contract award notice

Notice identifier: 2023/S 000-025209

Procurement identifier (OCID): ocids-h6vhtk-03f754

Published 26 August 2023, 2:41pm

### **Section I: Contracting authority**

#### **I.1) Name and addresses**

Kingston Hospital NHS Foundation Trust

Procurement Department, Vera Brown House

Kinston Upon Thames

KT2 7QB

#### **Contact**

Robert Bennett

#### **Email**

[robert.bennett@stgeorges.nhs.uk](mailto:robert.bennett@stgeorges.nhs.uk)

#### **Telephone**

+44 07920141553

#### **Country**

United Kingdom

**Region code**

UKI63 - Merton, Kingston upon Thames and Sutton

**Internet address(es)**

Main address

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

Buyer's address

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

**I.4) Type of the contracting authority**

Body governed by public law

**I.5) Main activity**

Health

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## **Section II: Object**

### **II.1) Scope of the procurement**

#### **II.1.1) Title**

Supply of Soft Facilities Management Services Management Services at Kingston Hospital

Reference number

KHT-4-2324-8-NT0221-K

#### **II.1.2) Main CPV code**

- 79993100 - Facilities management services

#### **II.1.3) Type of contract**

Services

#### **II.1.4) Short description**

This contract award is for an 18-month contract from 26.8.23 to 25.2.25 for the provision of Soft Facilities Management Services on the main site of Kingston Hospital NHS Foundation Trust. There are extension options for a further 6 months up to 25.8.25 at the latest.

The contract award includes the following services to be provided site-wide at the Trust: Helpdesk Services, Catering Services, Portering, Cleaning, Post Room Services, Reception Services, Security Services and Waste Management 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: £23,767,576.53

### **II.2) Description**

#### **II.2.3) Place of performance**

NUTS codes

- UKI63 - Merton, Kingston upon Thames and Sutton

Main site or place of performance

Kingston Hospital NHS Foundation Trust, Galsworthy Road, Kingston upon Thames, Surrey, KT2 7QB

#### **II.2.4) Description of the procurement**

This contract award is for an 18-month contract from 26.8.23 to 25.2.25 for the provision of Soft Facilities Management Services on the main site of Kingston Hospital NHS Foundation Trust. There are extension options for a further 6 months up to 25.8.25 at the latest.

The contract award includes the following services to be provided site-wide at the Trust: Helpdesk Services, Catering Services, Portering, Cleaning, Post Room Services, Reception Services, Security Services and Waste Management Services.

The total 18-month contract value is £23,767,576.53 excluding VAT. This figure comprises the fixed contract price of £20,579,188.53 excluding VAT plus ongoing variation charges, volume adjustments, pass-through costs and one-off variations (extrapolated from 22/23 volume figures) of £3,188,388.00 excluding VAT.

Contractor

The contract has been awarded to ISS Mediclean Limited.

Award Type

Contract awarded pursuant to a negotiated procedure without prior advertisement.

Justification for awarding the contract without prior advertisement

Summary

This contract has been awarded without prior publication pursuant to Regulation 32(2)c) of the Public Contracts Regulations 2015, on the basis that an event unforeseeable by the contracting authority (Kingston Hospital NHS Foundation Trust), has occurred and made direct award necessary because the time limits for the open and restricted procedures cannot be complied with, in the time required to award a contract.

Detail

In 2004 the Trust entered into a contract (the PFI contract) with Prime Care Solutions (Kingston) Limited (PCS) for the period 23.11.04 to 22.11.34. The PFI contract was for the development of the Kingston Surgical Centre (KSC) building on the Kingston Hospital site, the provision of hard FM services to KSC only and the provision of Soft FM Services (Helpdesk Services, Catering Services, Portering, Cleaning, Post Room Services, Reception Services, Security Services and Waste Management Services) to the entire

Kingston Hospital site.

Under the PFI contract, the soft FM services were provided by ISS Mediclean Limited acting as a subcontractor to PCS.

On 22nd May 2023, the Trust received a letter from PCS confirming that the directors of PCS had decided to obtain insolvency protection and were to commence a formal insolvency process.

On 24th May 2023, the Trust received a copy of a sealed Winding-Up Petition filed by PCS at the High Court (court reference CR-2023-002730). In terms of that petition, it was confirmed that PCS was unable to pay its debts and could not continue to trade, and therefore PCS had resolved to be wound up by the court. On 25th May 2023, PCS ceased to carry on business. PCS ceasing to carry on business is a PCS Event of Default pursuant to Clause 44.1(a)(iii) of the Project Agreement.

Subsequently PCS entered into provisional liquidation on 19th June 2023 and a winding up order was made in respect of PCS on 5th July 2023. The Official Receiver was appointed liquidator of PCS pursuant to the winding up order. PCS has not resumed carrying on its business.

The Trust was obliged to allow the Project's funders an opportunity to decide whether to step in to the Project before the Trust could terminate the Project Agreement. That period for the funders to make such a decision expired on 21st August 2023. As a result of the funders deciding not to step in and the continuance of the event of default, the Trust became entitled to terminate the Project Agreement from 22nd August 2023.

As a result of the early termination of the PFI contract, the Trust is, ipso facto, left without any contract for Soft FM services. Kingston Hospital would be unable to function without soft FM services for a single day. For example:

- Wards would not be cleaned
- Meals would not be provided to inpatients
- Patients would not be portered from one part of the hospital to another
- There would be no security staff on the site

It was, therefore, necessary for the Trust to award a contract for the soft FM services on the same day that the PFI contract was terminated (being the date of dispatch of this notice). Since no other contractor (or combination of contractors) would be able to commence the required services immediately, the Trust had no choice but to award a contract to ISS Mediclean Limited to commence the provision of the Soft FM Services on the date of the termination of the PFI contract.

The Trust intends to re-procure the Soft FM services using a competitive tendering process. Undertaking a competitive tendering process for a Soft FM contract of this scale and nature is a lengthy process including early market engagement, a substantial amount of time optimising the specification, the tendering process itself and, following supplier selection, an implementation period which includes transfer of staff under TUPE regulations. Given the high value and critical nature of the services, selecting a supplier

for such services is imperative for the Trust and its patients and it is vital that adequate time is allowed to run the procurement process. As such, and given the lack of certainty around the parties agreeing to terminate the PFI contract early, the Trust could not have carried out a procurement in respect of the provision of the Soft FM Services in advance of the PFI contract being terminated. There was no certainty that the termination date would occur (and if so when it would occur) and in any case there was insufficient time to conduct the activities referred to above.

The Trust has therefore entered into a contract with ISS Mediclean Limited for the duration set out in this notice in order to allow adequate time for the Trust to conduct a procurement exercise in relation to the Soft FM Services and for the selected economic operator to commence the provision of the Soft FM Services following the conclusion of the contract awarded to ISS Mediclean Limited referred to in this notice.

#### **II.2.5) Award criteria**

Price

#### **II.2.11) Information about options**

Options: No

#### **II.2.13) Information about European Union Funds**

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

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## 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

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

Explanation:

The contract has been awarded without prior publication pursuant to Regulation 32(2)c) of the PCR2015, on the basis that an event unforeseeable by Kingston Hospital NHS Foundation Trust (KHT)), has occurred and made direct award necessary because the time limits for the open and restricted procedures cannot be complied with, in the time required to award a contract.

In 2004 KHT entered into a contract (the PFI contract(PFIC)) with Prime Care Solutions (Kingston) Ltd (PCS) for the period 23.11.04 to 22.11.34. The PFIC was for the development of the Kingston Surgical Centre (KSC) building on the KHT site, the provision of hard FM services to KSC only and the provision of Soft FM Services (SFS) (Helpdesk Services, Catering Services, Portering, Cleaning, Post Room Services, Reception Services, Security Services and Waste Management Services) to the entire KHT site.

Under the PFIC, the SFS were provided by ISS Mediclean Ltd, a subcontractor to PCS. On 22.5.23, the Trust received a letter from PCS confirming that the directors of PCS had decided to obtain insolvency protection and were to commence a formal insolvency process.

On 24.5.23, the Trust received a copy of a sealed Winding-Up Petition filed by PCS at the High Court (court refCR-2023-002730). In terms of that petition, it was confirmed that PCS was unable to pay its debts and could not continue to trade and therefore PCS had resolved to be wound up by the court. On 25.5.23, PCS ceased to carry on business. PCS ceasing to carry on business is a PCS Event of Default pursuant to Clause 44.1(a)(iii) of the Project Agreement (PA).

Subsequently PCS entered into provisional liquidation on 19.6.23 and a winding up order was made in respect of PCS on 5.7.23. The Official Receiver was appointed liquidator of PCS pursuant to the winding up order. PCS has not resumed carrying on its business. The Trust was obliged to allow the Project's funders an opportunity to decide whether to step in to the Project before the Trust could terminate the PA. That period for the funders to make such a decision expired on 21.8.23. As a result of the funders deciding not to step in and the continuance of the event of default, the Trust became entitled to terminate the PA from 22.8.23.

As a result of the early termination of the PFIC, the Trust is left without any contract for

SFS. KHT would be unable to function without SFS for a single day. For example:

- Wards would not be cleaned
- Meals would not be provided to inpatients
- Patients would not be portered from one part of the hospital to another
- There would be no security staff on the site

It was, therefore, necessary for the Trust to award a contract for the SFS on the same day that the PFIC was terminated (being the date of dispatch of this notice). Since no other contractor would be able to commence the required services immediately, the Trust had no choice but to award a contract to ISS Mediclean Ltd to commence the provision of the SFS on the date of the termination of the PFI contract.

The Trust intends to re-procure the SFS using a competitive tendering process(CTP). Undertaking a CTP for a SFS contract of this scale is a long process including market engagement, a substantial amount of time optimising the specification, the tendering process and, after supplier selection, an implementation period which includes staff transfer under TUPE regulations. Given the high value and critical nature of the services, selecting a supplier for such services is imperative for KHT and its patients and it is vital that adequate time is allowed to run the procurement process. CONTINUES ...

THIS BOX GIVES INSUFFICIENT SPACE FOR THE JUSTIFICATION. PLEASE SEE the II.2.4.1 DESCRIPTION OF PROCUREMENT FIELD ABOVE FOR AN UN-TRUNCATED VERSION OF THIS JUSTIFICATION TEXT.

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

The procurement is covered by the Government Procurement Agreement: No

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## **Section V. Award of contract**

A contract/lot is awarded: Yes

### **V.2) Award of contract**

#### **V.2.1) Date of conclusion of the contract**

25 August 2023

#### **V.2.2) Information about tenders**

Number of tenders received: 1

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

#### **V.2.3) Name and address of the contractor**

ISS Mediclean Limited

Velocity 1 Brooklands Drive Weybridge Surrey

Weybridge

KT13 0SL

Telephone

+44 08450576300

Country

United Kingdom

NUTS code

- UKI75 - Hounslow and Richmond upon Thames

National registration number

01659837

Internet address

<http://www.uk.issworld.com>

The contractor is an SME

No

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

Initial estimated total value of the contract/lot: £23,767,576.53

Lowest offer: £23,767,576.53 / Highest offer: £23,767,576.53 taken into consideration

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## **Section VI. Complementary information**

### **VI.4) Procedures for review**

#### **VI.4.1) Review body**

High Court and Court of Appeal of England and Wales

Strand

London

WC2A 2LL

Email

[InternationalRelationsJudicialOffice@judiciary.uk](mailto:InternationalRelationsJudicialOffice@judiciary.uk)

Country

United Kingdom

Internet address

<https://www.judiciary.uk/>