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Award

## **Provision of Electronic Monitoring (EM) Services in Northern Ireland**

Department of Justice

F15: Voluntary ex ante transparency notice

Notice identifier: 2022/S 000-025508

Procurement identifier (OCID): ocds-h6vhtk-0367a9

Published 12 September 2022, 12:48pm

### **Section I: Contracting authority/entity**

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

Department of Justice

c/o Construction Procurement Delivery, Clare House, 303 Airport Road West

Belfast

BT3 9ED

#### **Email**

[justice.cpd@finance-ni.gov.uk](mailto:justice.cpd@finance-ni.gov.uk)

#### **Country**

United Kingdom

#### **Region code**

UKN - Northern Ireland

## **Justification for not providing organisation identifier**

Not on any register

## **Internet address(es)**

Main address

<https://www.justice-ni.gov.uk/>

Buyer's address

<https://www.finance-ni.gov.uk/topics/procurement>

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

Body governed by public law

## **I.5) Main activity**

General public services

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## **Section II: Object**

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

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

Provision of Electronic Monitoring (EM) Services in Northern Ireland

Reference number

DoJ DAC 16/22

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

- 79710000 - Security services

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

Services

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

The Department of Justice (DoJ) will be awarding a short-term interim contract for the provision of services for Electronic Monitoring (EM) of offenders in Northern Ireland. The Department has statutory obligations under Article 35 of Criminal Justice (Northern Ireland) Order 2008, which provides for EM as a condition of court bail, post-release licence or range of community supervision orders for adults and young persons. The scope of EM is a public protection tool for both the judiciary and for criminal justice agencies monitoring offenders in the community.

#### **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: £2,400,000

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

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

NUTS codes

- UKN - Northern Ireland

Main site or place of performance

As required throughout Northern Ireland.

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

Electronic tagging and monitoring services of offenders in Northern Ireland.

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

Price

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

Options: No

## 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:

DoJ awarded a contract in 2018, which was terminated prior to going live. To ensure service continuity, DoJ extended the existing contract while a new competitive process was initiated in January 2020. Pre-market engagement responses were receipted early 2020 and about to be assessed when the COVID pandemic hit. The new process had to be put on hold immediately as DoJ and CPD resources were prioritised to COVID response activities. DoJ had to ensure delivery of business as usual for this critical service while working around constraints and working conditions imposed by the pandemic. The current contract is now due to expire in October 2022.

Provision of this service is a statutory requirement under the Criminal Justice (NI) Order 2008 and there are serious legal and public protection ramifications if it is not in place. Lack of service would significantly impact on the ability to manage the risk of those on bail or those who have been released subject to licence conditions, who are often released on the basis of an EM curfew being in place. In Northern Ireland, there is the added risk and profile of tagging high risk terrorist subjects, with substantial legal scrutiny and press interest in this matter.

There are derogations under the Public Contracts Regulations to award a contract where the supplies or services can only be supplied by a particular supplier for the following reasons: -

- a) Where competition is absent for technical reasons (regulation 32(2) (b) (ii)); but only, where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.
- b) Regulation 32(5)(b) for additional deliveries by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance.

The current service is very complex, high risk with serious legal ramifications if it fails e.g. adverse public protection outcomes, including in respect of terrorist related offenders; legal challenges and associated financial penalties for the department; ECHR and deprivation of liberty related issues where EM is not available to manage release on bail or licence.

There are high switching costs and high technical thresholds which require a significant period of testing to satisfy the Department and stakeholders that another provider could deliver the service to the required standard. This would include multiple field and breach reporting tests, equipment/hardware tests, process testing and interoperability with existing DOJ/CJO systems.

Pre-market engagement was completed to aid the new procurement process which identified a lack of awareness/understanding of the NI Criminal Justice system, and highlighted that a limited number of suppliers had any geographic footprint locally. This is a specialist and limited market.

As equipment and installations are a large proportion of the contract, retaining the incumbent is the only option. It will be VFM in that there is stable, quality service delivery that will ensure the Department can deliver its statutory obligations. There will be no requirement to purchase new equipment until the new contract is in place. Any other provider would have to bring in new equipment/new technology etc all of which would need to be robustly tested over time.

This will be an interim contract to ensure continuity of services while a tender process (already initiated) occurs. The anticipated go live date is 1st April 2024. The tender opportunity and Contract Notice will be advertised in FTS in due course.

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

The procurement is covered by the Government Procurement Agreement: Yes

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

### **Contract No**

DoJ DAC 16/22

### **Title**

Provision of Electronic Monitoring (EM) Services in Northern Ireland

A contract/lot is awarded: Yes

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

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

6 September 2022

### **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**

Information withheld for security reasons

Belfast

Country

United Kingdom

NUTS code

- UKN - Northern Ireland

Justification for not providing organisation identifier

Not on any register

The contractor/concessionaire is an SME

No

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

Initial estimated total value of the contract/lot/concession: £2,400,000

Total value of the contract/lot/concession: £2,400,000

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## **Section VI. Complementary information**

### **VI.3) Additional information**

This VEAT is to give notice of the award decision and to commence a standstill period prior to award of contract. The contract award will not be entered into until 23rd September 2022 at the earliest.

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

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

See VI.4.3 / Review procedure

See VI.4.3 / Review procedure

Country

United Kingdom

#### **VI.4.3) Review procedure**

Precise information on deadline(s) for review procedures

The UK does not have any special review body with responsibility for appeal/mediation procedures in public procurement competitions. Instead, any challenges are dealt with by the High Court, Commercial Division, to which proceedings may be issued regarding alleged breaches of the Public Contracts Regulations 2015.

Please contact CPD with any queries / issues.