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Award

## **NP90323(c) Botulinum Toxin Type A Medicines (Xeomin®)**

The Common Services Agency (more commonly known as NHS National Services Scotland) (NSS)

F15: Voluntary ex ante transparency notice

Notice identifier: 2023/S 000-029230

Procurement identifier (OCID): ocds-h6vhtk-0407c5

Published 4 October 2023, 11:19am

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

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

The Common Services Agency (more commonly known as NHS National Services Scotland) (NSS)

Gyle Square (NSS Head Office), 1 South Gyle Crescent

Edinburgh

EH12 9EB

#### **Contact**

Michelle Semple

#### **Email**

[Michelle.semple3@nhs.scot](mailto:Michelle.semple3@nhs.scot)

#### **Country**

United Kingdom

**NUTS code**

UKM - Scotland

**Internet address(es)**

Main address

<http://www.nss.nhs.scot/browse/procurement-and-logistics>

Buyer's address

[https://www.publiccontractsscotland.gov.uk/search/Search\\_AuthProfile.aspx?ID=AA11883](https://www.publiccontractsscotland.gov.uk/search/Search_AuthProfile.aspx?ID=AA11883)

**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**

NP90323(c) Botulinum Toxin Type A Medicines (Xeomin®)

**II.1.2) Main CPV code**

- 33600000 - Pharmaceutical products

**II.1.3) Type of contract**

Supplies

**II.1.4) Short description**

Supply of Botulinum Toxin Type A Medicines(Xeomin®) to NHS Scotland:

NP90323(c): Botulinum Toxin Type A Injection 50-unit vial/ Botulinum Toxin Type A

Injection 100-unit vial/ Botulinum Toxin Type A Injection 200-unit vial (Xeomin®)

#### **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: £2,772,360

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

#### **II.2.2) Additional CPV code(s)**

- 33600000 - Pharmaceutical products

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

NUTS codes

- UKM - Scotland

Main site or place of performance

All entities constituted pursuant to the National Health Service (Scotland) Act 1978, and any Integrated Joint Boards established pursuant to the new Public Bodies (Joint Working) Scotland Act 2014.

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

The Framework Agreement is for the supply of Botulinum Toxin Type A (Xeomin®) to NHS Scotland. The Framework Agreement has been awarded as a Single supplier framework agreement to one (1) Framework Participant.

#### **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**

Negotiated without a prior call for competition

- The works, supplies or services can be provided only by a particular economic operator for the following reason:
  - protection of exclusive rights, including intellectual property rights

Explanation:

The medicine to be awarded to the framework agreement is protected by exclusive rights, including intellectual property rights, in line with Regulation 33(1)(b)(iii) of the Public Contracts (Scotland) Regulations 2015.

#### **IV.1.3) Information about a framework agreement**

The procurement involves the establishment of a framework agreement

#### **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**

A contract/lot is awarded: Yes

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

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

4 October 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**

Merz Pharma UK Ltd

260 Centennial Park, Elstree

Herts

WD6 3SR

Country

United Kingdom

NUTS code

- UK - United Kingdom

The contractor/concessionaire is an SME

No

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

Total value of the contract/lot/concession: £2,772,360

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## **Section VI. Complementary information**

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

The estimated value(s) of the Framework Agreement referred to in Sections II.1.7 and V.2.4 cover(s) the thirty-six (36) month contract duration and the twelve (12) month extension period of the Framework Agreement.

(SC Ref:743081)

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

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

Sheriff Court House

27 Chambers Street

Edinburgh

EH1 1LB

Email

[edinburgh@scotcourts.gov.uk](mailto:edinburgh@scotcourts.gov.uk)

Country

United Kingdom

Internet address

<https://www.scotcourts.gov.uk/the-courts/court-locations/edinburgh-sheriff-court-and-justice-of-the-peace-court>

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

Precise information on deadline(s) for review procedures

The notification will incorporate a 'standstill period' of a minimum of 10 clear calendar days (or a minimum of 15 if the communication method used is not electronic) between the date on which the Authority despatches the VEAT notice and the date on which the Authority proposes to conclude the relevant framework agreement.

The bringing of court proceedings against the authority during the standstill period will

automatically continue the prohibition on entering into the framework agreement until the court proceedings are determined, discontinued or disposed of, or the court, by interim order, brings to an end the prohibition. The remedies that may be awarded by the courts before the framework agreement has been entered into include the setting aside of the decision to award the framework agreement to the winning tenderer.

The bringing of court proceedings against the authority after the framework agreement has been entered into will not affect the framework agreement unless grounds for the imposition of special penalties under the Public Contracts (Scotland) Regulations 2015 can be established. Otherwise, the remedies that may be awarded by the courts where the framework agreement has been entered into are limited to the award of damages.