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Contract

Enteral Nutrition - Covid Supply Resilience

Department of Health and Social Care

F03: Contract award notice

Notice identifier: 2023/S 000-032789

Procurement identifier (OCID): ocds-h6vhtk-04161b

Published 6 November 2023, 2:18pm

Section I: Contracting authority

I.1) Name and addresses

Department of Health and Social Care

39 Victoria Street

London

SW1H 0EU

Contact

Linda Peacock

Email

Linda.Peacock@dhsc.gov.uk

Country

United Kingdom

Region code

UKI32 - Westminster

Internet address(es)

Main address

<https://www.gov.uk/government/organisations/department-of-health-and-social-care>

Buyer's address

<https://www.gov.uk/government/organisations/department-of-health-and-social-care>

I.4) Type of the contracting authority

Ministry or any other national or federal authority

I.5) Main activity

Health

Section II: Object

II.1) Scope of the procurement

II.1.1) Title

Enteral Nutrition - Covid Supply Resilience

Reference number

148814

II.1.2) Main CPV code

- 33692300 - Enteral feeds

II.1.3) Type of contract

Supplies

II.1.4) Short description

Supply of enteral nutrition feeds and consumables required to support patient life in intensive and critical care including provision of stock management, storage and rotation services to ensure supplier has sufficient supplies in stock for NHS customers to buy through pre-existing framework agreements.

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: £895,000

II.2) Description

II.2.3) Place of performance

NUTS codes

- UK - United Kingdom

II.2.4) Description of the procurement

The Department of Health and Social Care (DHSC) has (on behalf of NHS bodies in

England, Wales, Scotland and Northern Ireland) awarded this contract for the supply of enteral nutrition feeds and consumables required to support patient life in intensive and critical care. The contract includes provision of stock management, storage and rotation services to safeguard supply of these essential life-saving products by ensuring the supplier has sufficient supplies in stock for NHS customers to buy through pre-existing framework agreements.

Under the contract, the supplier will supply and provide stock management services in relation to the following products:

- enteral water;
- high protein enteral tube feed; and
- enteral pumps compatible with the above products.

The maximum value of this contract is estimated to be £ 895,000 (excluding VAT). The estimated value is based on clinically identified volumes and validated assumptions.

The contract award notice is being published retrospectively, having been inadvertently not published previously due to an IT systems error. DHSC is publishing the notice now to correct that error.

II.2.5) Award criteria

Quality criterion - Name: Quality / Weighting: 70%

Price - Weighting: 30%

II.2.11) Information about options

Options: Yes

Description of options

The contract was for an initial 1 year period from 1 July 2022 to 30 June 2023 with options to extend (exercisable under the terms of the contract) on one or more occasions depending on business needs provided the contract ends no later than 30 June 2025. The contract has now been varied to extend the initial expiry date to 30 June 2024.

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

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:

Specialised high protein enteral feeds and dedicated consumables (giving sets) are required to support patient life in intensive and critical care. Four suppliers supply 99% of the UK market. The enteral feeds and giving sets used with the pump fleets currently employed by NHS Trusts are bespoke to the supplier. Each supplier's enteral feeds are proprietary and only compatible with the same supplier's pump. In addition, the enteral feeds have short shelf lives (6-9 months), and it is vital suppliers manage and rotate stock effectively to ensure sufficient enteral feeds are available for NHS customers to buy through pre-existing framework agreements.

As such, DHSC (on behalf of NHS bodies in England, Wales, Scotland and Northern Ireland) has directly awarded four contracts – including the one referenced in this CAN – to each major enteral feed supplier to the UK market. The contracts are for the supply of enteral feeds and include the provision of stock management, storage and rotation services.

DHSC believes the direct awards are justified under the grounds set out in Regulation 32(b)(ii) and Regulation 32(5) of the Public Contracts Regulations 2015 as explained below.

Reg 32(2)(b)(ii) – absence of competition for technical reasons

A. The works, supplies or services can be supplied only by a particular economic operator as competition is absent for technical reasons: The pump fleets already procured by NHS trusts are standardised to a specific supplier's system, and therefore only compatible with proprietary enteral feeds and giving sets. As such, only the supplier can supply the required enteral feeds.

B. No reasonable alternative or substitute exists: As the enteral feeds are proprietary and only compatible with the pump fleets already procured by NHS trusts, there are no reasonable alternative products available.

C. The absence of competition is not the result of an artificial narrowing down of the parameters of the procurement: DHSC has not artificially narrowed the parameters of the procurement as the proprietary enteral feeds being procured are required to operate with pump fleets already procured by NHS Trusts.

Reg 32(5)/(6) – additional deliveries

A. Additional deliveries by the original supplier where a change in supplier would result in incompatibility in operation and maintenance: The 'additional deliveries' are being made by the same supplier. In addition, as the pump fleets already procured by NHS trusts are only compatible with proprietary enteral feeds and giving sets, any change in supplier would result in incompatibility.

B. The contract should not (save in exceptional circumstances) exceed 3 years: The contract does not exceed 3 years.

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

The procurement is covered by the Government Procurement Agreement: Yes

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

21 February 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

Fresenius Kabi Ltd

Cheshire

Country

United Kingdom

NUTS code

- UK - United Kingdom

The contractor is an SME

Yes

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

Initial estimated total value of the contract/lot: £895,000

Lowest offer: £895,000 / Highest offer: £895,000 taken into consideration

Section VI. Complementary information

VI.4) Procedures for review

VI.4.1) Review body

The High Court

The Strand

London

WC2A 2LL

Country

United Kingdom

Internet address

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

VI.4.3) Review procedure

Precise information on deadline(s) for review procedures

Part 3 of the Public Contracts Regulations 2015 (the Regulations) provides for aggrieved parties who have been harmed or are at risk of harm by a breach of the Regulations to take legal action. Any such action must be started in the High Court within the applicable limitation period set out in Part 3.

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

High Court

39 Victoria Street

London

SW1H 0EU

Country

United Kingdom

Internet address

<https://www.gov.uk/government/organisations/department-of-health-and-social-care>

