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Award

## **NHS Framework Agreement for the supply of Human Immunoglobulin and Anti-D Immunoglobulin**

NHS ENGLAND

F15: Voluntary ex ante transparency notice

Notice identifier: 2024/S 000-038647

Procurement identifier (OCID): ocds-h6vhtk-04c141

Published 29 November 2024, 3:46pm

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

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

NHS ENGLAND

WELLINGTON HOUSE,133-155 WATERLOO ROAD

LONDON

SE18UG

#### **Contact**

Darryn Boardman

#### **Email**

[darryn.boardman@nhs.net](mailto:darryn.boardman@nhs.net)

#### **Telephone**

+44 7702410392

**Country**

United Kingdom

**Region code**

UKI45 - Lambeth

**Justification for not providing organisation identifier**

Not on any register

**Internet address(es)**

Main address

<https://www.england.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**

NHS Framework Agreement for the supply of Human Immunoglobulin and Anti-D Immunoglobulin

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

- 33651520 - Immunoglobulins

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

Supplies

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

NHS England has recently awarded a framework for Human Albumin & Normal and Anti-D Immunoglobulin

#### **II.1.6) Information about lots**

This contract is divided into lots: Yes

#### **II.1.7) Total value of the procurement (excluding VAT)**

Value excluding VAT: £400,000,000

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

#### **II.2.1) Title**

Lot 1 - 5% Intravenous Immunoglobulin (5% IVIg)

Lot No

1

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

- 33651520 - Immunoglobulins

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

NUTS codes

- UK - United Kingdom

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

5% Intravenous Immunoglobulin (5% IVIg)

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

Options: No

## **II.2) Description**

### **II.2.1) Title**

Lot 2 - 10% Intravenous Immunoglobulin (10% IVIg)

Lot No

2

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

- 33651520 - Immunoglobulins

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

NUTS codes

- UK - United Kingdom

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

10% Intravenous Immunoglobulin (10% IVIg)

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

Options: No

## **II.2) Description**

### **II.2.1) Title**

Lot 3: Subcutaneous Immunoglobulin (SCIg)

Lot No

3

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

- 33651520 - Immunoglobulins

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

NUTS codes

- UK - United Kingdom

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

Subcutaneous Immunoglobulin (SCIg)

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

Options: No

## **II.2) Description**

### **II.2.1) Title**

Lot 5: 5% Intravenous Immunoglobulin (5% IVIg)

Lot No

4

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

- 33651520 - Immunoglobulins

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

NUTS codes

- UK - United Kingdom

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

5% Intravenous Immunoglobulin (5% IVIg)

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

Options: No

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

#### **II.2.1) Title**

Lot 6: 10% Intravenous Immunoglobulin (10% IVIg)

Lot No

5

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

- 33651520 - Immunoglobulins

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

NUTS codes

- UK - United Kingdom

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

10% Intravenous Immunoglobulin (10% IVIg)

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

Options: No

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

#### **II.2.1) Title**

Lot 7: Subcutaneous Immunoglobulin (SCIg)

Lot No

6

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

- 33651520 - Immunoglobulins

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

NUTS codes

- UK - United Kingdom

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

Subcutaneous Immunoglobulin (SCIg)

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

Options: 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

- The procurement falls outside the scope of application of the regulations

Explanation:

Explanation provided in section VI.3. Additional information

#### **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**

23 June 2021

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

The contract has been awarded to a group of economic operators: Yes

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

Bio Products Laboratory Ltd

Elstree

Country

United Kingdom

NUTS code

- UK - United Kingdom

Companies House

0734036

The contractor/concessionaire is an SME

No

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

CSL Behring UK Ltd

Haywards Heath



Country

United Kingdom

NUTS code

- UK - United Kingdom

Companies House

01622483

Internet address

<https://www.cslbehring.co.uk/>

The contractor/concessionaire is an SME

No

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

Grifols UK Ltd

London

Country

United Kingdom

NUTS code

- UK - United Kingdom

Companies House

01456099

Internet address

<https://www.grifols.com/en/home>

The contractor/concessionaire is an SME

No

**V.2.3) Name and address of the contractor/concessionaire**

LFB Biopharmaceuticals Ltd

London

Country

United Kingdom

NUTS code

- UK - United Kingdom

Companies House

06058711

Internet address

<https://www.lfbbiopharmaceuticals.co.uk/>

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: £400,000,000

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## Section VI. Complementary information

### VI.3) Additional information

This VEAT is not to provide notice of an award without prior notice but to provide notice of a modification of the framework agreement (as defined below) to (i) extend its duration with a limited number of suppliers and (ii) increase the estimated value of the framework agreement across all lots.

This framework agreement was awarded as per publication reference 2021/S 000-017380 in August 2021 (the "Current Framework"). The term of the Current Framework was for an initial period from 1st July 2021 to 31st December 2022 with optional extension periods of up to 30 months (i.e to 30th June 2025).

Duration Modification.

NHS England has exercised its right to extend the Current Framework to 31st March 2025 and recently undertook a new procurement for the award of new framework agreements to commence from 1st April 2025 (the "New Framework") for the supply of the same/similar products. The awarded value of the Current Framework was £1.2bn.

However, there are four suppliers - LFB Biopharmaceuticals Ltd (Lots 2 and 6), CSL Behring Ltd (Lots 2, 3, 6 and 7), Bio Products Laboratory Ltd (Lot 2, 3, 6 and 7), and Grifols UK Ltd (Lots 1 and 5) - on the Current Framework who have either (i) not been awarded a place on the New Framework or (ii) have been awarded place on the New Framework as a reserve supplier and therefore have no committed volumes or guarantee of supply (the "Absent Suppliers") in respect of the products that they currently supply under the Current Framework (the "Absent Products"). Some patients are reliant upon Absent Products and will require switching to products supplied by suppliers awarded guaranteed supplies on the New Framework (the "New Products"). Changing a patient from Absent Products to a New Product needs to be appropriately managed. The scale of changes required to patient treatment resulting from the new procurement are higher than expected and cannot be completed prior to the commencement of the New Framework. In order to safely switch patients, more time will be required than could have been foreseen. This switching process will be undertaken over a period of time as is clinically appropriate considering patients' needs and clinical resources. In order to ensure continuity of supply of medicines from current suppliers during the transition period, NHS England will extend the Current Framework for IVIg products by 6 months and for SCIg products by 9 months.

In order to secure continued routine access to Absent Products for a period of time to allow the safe switching of products, NHS England are required to extend the duration of the Current Framework with those Absent Suppliers in respect of the Absent Products for a period of time.

NHS England have and will exercise the contractual right to extend the Current Framework with the Absent Suppliers for a further 3-months to 30th June 2025 and therefore NHS England are not required to rely on regulation 72 of the Public Contracts Regulations 2015 to extend for that period of time. The value of supply of products during this extended period is estimated to be c.£34,056,162.

However, a further period of time beyond that contractually entitled period will also be required. As such, NHS England will require to modify the Current Framework with the Absent Suppliers so as to extend the Current Framework for those Absent Products for a further period of (i) 3-months for IVIg products (Lots 1, 2, 5 and 6) (so to 30th September 2025) and (ii) 6-months for SCIg products (Lots 3 and 7) (so to 31st December 2025) (the "Duration Modification"). The requirement to extend for that additional period of time has become necessary and is permitted by Regulation 72(1)(b) and or (c) of The Public Contracts Regulations 2015. Namely, the following conditions have been fulfilled: (i) additional supplies of products by the original contractors (i.e. the Absent Suppliers) have become necessary so as to secure continuity of products to allow the transition of patients to products on the New Framework and were not included in the initial procurement (ii) a change of contractor cannot be made for technical reasons of interchangeability with existing supplies as those patients will require switching between products over a period of time under supervision of clinicians and/or would cause significant inconvenience (iii) the increase in price of the modification does not exceed 50% of the original contract value.

Additionally or alternatively (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen (ii) the modification does not alter the overall nature of the contract as it continues to be a framework agreement for supply of the same/similar products and (iii) the increase in price of the modification does not exceed 50% of the original contract value.

The awarded value of the Current Framework was £1.2bn. The Duration Modification will increase the framework value by c.£15,036,879 which is within the allowed 50% threshold.

#### Value Modification

Additionally, NHS England is required to increase the estimated value of the Current Framework. The estimated awarded value of the Current Framework was £1.2bn. NHS England estimates that the total requirement for purchase of products across the lifetime of the Current Framework up to the expiry of the Current Framework on 31st March 2025 will now be an increased figure of £1.6bn and are therefore increasing the estimated value from £1.2bn to £1.6bn (an increase of 33%) (the "Value Modification"). This increase in value is due to a combination of (i) an increase in demand for products and (ii) increase in pricing of the products as a result of inflation and increase in Voluntary Pricing and Access Scheme ("VPAS") rebate scheme. This also includes the value of the Duration Modification.

The Value Modification has become necessary and is permitted by Regulation 72(1)(b), (c)

and/or (e) of the Public Contracts Regulations 2015. Namely, the following conditions have been fulfilled: (i) additional supplies of products by the original contractors (i.e. all of those suppliers appointed on the Current Framework) have become necessary so as to secure continuity of products and were not included in the initial procurement (ii) a change of contractor cannot be made for technical reasons of interchangeability with existing supplies as patients require continuity of supply of the products on the Current Framework until the expiry of the Current Framework and commencement of the New Framework (where save for the Absent Suppliers the majority of the suppliers on the Current Framework are also appointed to the New Framework) (iii) the increase in price of the modification does not exceed 50% of the original contract value.

Additionally or alternatively (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen (ii) the modification does not alter the overall nature of the contract as it continues to be a framework agreement for supply of the same/similar products and (iii) the increase in price of the modification does not exceed 50% of the original contract value.

Finally, the Value Modification is not substantial (as set out in regulation 72(8)) and therefore is permissible pursuant to regulation 72(1)(e).

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

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

The High Court

London

Country

United Kingdom