

# NHS Southport & Formby CCG and NHS South Sefton CCG

## Invitation to Tender for the Provision of Specialist Bladder & Bowel Prescription Service

M-20-02

Annex 1: Invitation to Tender



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# Part A – The Commissioner

## 1. Introduction

1.1 The Commissioning Organisation(s) for this service are:

- NHS Southport and Formby Clinical Commissioning Group
- NHS South Sefton Clinical Commissioning Group

And shall be referred to henceforth as “The CCG(s)”

## 2. Background to Required Services

2.1 Following on from the CCG piloting a stoma prescription service and having in place a catheter prescription service, the CCG would like to combine the Stoma and Continence prescription services into a Bladder & Bowel Prescription Service providing a single point of access and holistic service for patients.

The aim is to have a centralised Bladder & Bowel prescription ordering service provided by specialist nurses prescribers, working alongside patients, primary care and existing hospital or community-based services. Through the service patients will have access to advice from specialist stoma and continence nurses and an individualised care review to ensure they are always prescribed the best products for their differing needs and reduce inappropriate prescribing.

Utilising specialist nurse prescribers within the stoma pilot and continence prescription services has shown improved outcomes for patients. The number of patients accessing the services for advice increased dramatically during the COVID-19 pandemic.

2.2 Most patients will experience problems with their stoma or catheter. Many patients do not seek help when experiencing problems and will try to manage alone. Reasons for this include lack of understanding of the issues needing specialist input or due to difficulties in getting quick access to the right information and support when needed. These problems risk increasing healthcare costs due to increased product use, wastage and increased acuity of care. However, issues and complications can often be swiftly resolved when prompt advice is sought from a specially trained professional, e.g. stoma nurse. Therefore, ensuring efficient and available ongoing services is vital to best care and outcomes for patients.

2.3 It is vital that stoma/catheter prescribing is appropriate to patients’ needs to ensure the products continue to be clinically relevant and wastage can be avoided. Improvements to the quality of prescribing of these products has significant impact in terms of cost savings and quality of life for patients.

2.4 The service is expected to commence on 1st April 2021. The contract length will initially be for a two-year period until 31<sup>st</sup> March 2023, with the ability to extend for a 1-year period until 31<sup>st</sup> March 2024.

2.5 The contract offered will be the NHS standard contract, an example of which can be found as Annex 6a,6b, 6c, 6d and 6e. This is the 2019-20 version and the successful bidder will be contracted to the NHS standard contract version that is available at the time of contract signature.

2.6 The annual contract value for the Specialist Bladder & Bowel service is a zero-based contract and the CCGs are not looking to fund the cost of the service.

## 3. Background to CCG

3.1 NHS Southport & Formby CCG services an estimated population of 124,000 residents with 19 GP practices. For further information about NHS Southport & Formby CCG, please visit their website [www.southportandformbyccg.nhs.uk](http://www.southportandformbyccg.nhs.uk) but the key points are:

- The demographic makeup of our population shows a higher proportion of residents 65 years and over, approximately 27% compared with a national rate of closer to

18%. Projections over the next 10 years indicate that this group will increase by close to 18%.

- Whilst residents aged 85 years and over is the smallest age group, the over the next 10 years is projected to exceed 23%.
- Southport and Formby residents live in economically diverse communities, with areas of affluence and pockets of deprivation.
- The areas of highest income deprivation affecting older people are mainly concentrated in central Southport.

3.2 NHS South Sefton CCG serves an estimated population of 155,000 with 30 GP Practices. For further information about NHS South Sefton CCG, please visit their website [www.southseftonccg.nhs.uk](http://www.southseftonccg.nhs.uk) but the key points are:

- The demographic makeup of the population shows a higher proportion of residents 65 years, approximately 20.5%, compared to a national rate of closer to 18%. Projections over the next 10 years indicate that this group will increase by close to 18%.
- Whilst residents aged 85 years and over is the smallest age group, the over the next 10 years is projected to exceed 22%.
- South Sefton has significantly higher levels of deprivation and child poverty with income deprivation affecting children across a number of Boroughs within the top 1% in the country.

3.3 The CCGs will lead on all local stakeholder engagement issues relevant to this Procurement exercise. However, the CCGs would welcome support from the provider. All CCG Schemes are subject to ongoing patient and public consultation under the provision of the Health and Social Care Act 2012.

#### 4. About the Commissioning Support Unit

4.1 NHS Midlands & Lancashire CSU are supporting the CCGs with this procurement exercise. All communications relating to this ITT must be communicated via the CSU's procurement portal <https://mlcsu.bravosolution.co.uk> (Jaggaer/Bravo Solutions).

4.2 We are an organisation with a unique geographical reach and experience in serving diverse urban and rural populations and facing a range of commissioning challenges.

4.3 As one of England's biggest commissioning support units, we are the product of Staffordshire and Lancashire, and Central Midlands CSUs. We have retained all our customers and grown our business consistently since inception in April 2013. We provide end-to-end commissioning support services to 50 CCGs, covering a 12.3 million population with a total commissioning budget of £13.5 billion and 1400 WTEs. Other clients include:

- 4 NHS England regions
- NHS England national team
- 83 other NHS customers
- 14 other public-sector customers

4.4 Our vision is to play a pivotal role in improving health and wellbeing for populations we serve.

4.5 We achieve this by delivering commissioning support services that are highly responsive to needs and designed to help organisations navigate an increasingly challenging healthcare arena.

4.6 Our values underpin everything we do:

- Honesty, integrity and transparency
- Everyone counts
- Commitment to quality

- Adding value
- Working together

## **5. Sustainability and the Public Services (Social Value) Act 2012**

- 5.1 The commissioning CCGs and the CSU are committed to sustainable procurement as defined by the economic, environmental and social benefits that can be achieved through the commissioning and procurement lifecycle.
- 5.2 The commissioning CCGs and the CSU in addition to its commitment to sustainable procurement generally, also recognise its responsibilities pursuant to the Public Services (Social Value) Act 2012 specifically to consider how we add economic, social or environmental benefits for the local area through the procurement exercise we run.

## **6. The Modern Slavery Act 2015**

- 6.1 The commissioning CCGs and the CSU are committed to the objectives of the Modern Slavery Act 2015. We ask all Bidders to confirm whether they are a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 and to confirm that, if so, they are compliant with the annual reporting requirement of section 54.

# Part B – The Procurement Process

## 8. Overview

- 8.1 The Specialist Bladder & Bowel Prescription Service Tender has been developed by the CCGs. The Services to be procured as part of the Procurement are detailed in the Service Specification (see annex 2).
- 8.2 The procurement process being followed is modelled on an Open Procedure for health care services. Health Care Services are subject to the Public Contracts Regulations 2015 Schedule 3 and this tender is below the OJEU threshold. The CCGs withhold the right to vary the process as it sees necessary whilst adhering to those sections of the Public Contracts Regulations 2015 which are applicable to a below-threshold tender. The CCGs will ensure that Bidders are made aware, in reasonable time, of any changes it makes to the process. All changes will be communicated through the procurement portal messaging system.
- 8.3 The tender will be run in line with the EU treaty principles of equality, non-discrimination, proportionality and transparency.
- 8.4 This document gives Bidders an overview of the Procurement process; the rules and instructions for completing the ITT for the Procurement; and provides the Procurement specific information and requirements.
- 8.5 In evaluating Bids from Bidders, the CCGs will only consider information provided in response to this ITT.
- 8.6 The ITT consists of this document, an online questionnaire and accompanying attachments.
- 8.7 The document is an overview of the Procurement; details of how the ITTs will be evaluated; a list of the Procurement rules that all Bidders must comply with; instructions for Bidders on how to complete the ITT; and a glossary of terms and abbreviations used in the ITT Questionnaires.
- 8.8 The questionnaire set up on the Bravo Solution system for this presents the requirements the CCGs have for which a response is required.
- 8.9 Bidders wishing to be considered for the contract must submit Bids in accordance with the instructions set out in this document and the questionnaire. Bids must be submitted through the e-procurement portal by the published date. The CCGs reserve the right not to consider any Bid received after this deadline.
- 8.10 This ITT has been made available to all Bidders who have expressed an interest in line with the requirements in the Contracts Finder advertisement.

## 9. Instructions on Completing Tenders

- 9.1 Bidders are advised to carefully read this document, to carefully read through the Questionnaire, carefully read the attached Agreement, compile the required responses to the Questionnaire and to submit their Bid through the Jaggaer/Bravo e-procurement portal.
- 9.2 Bidders should note that the individual questions have an allocated word count which **should not** be exceeded. Also, in responding Bidders should state the number of words used in their response.
- 9.3 A Bid shall only be a compliant Bid where it complies with all the provisions of this document, includes responses to ALL the mandatory questions (signified with a \*) in the questionnaire, has a completed financial offer and confirms acceptance of ALL the contractual terms in the Agreement (attached). Bidders who do not submit a compliant Bid will be liable to disqualification at the discretion of the CCGs.

- 9.4 In evaluating Bids, the CCGs, will only consider information provided in response to the ITT. Bidders should not assume that the CCGs have any prior knowledge of the Bidder, its practice or reputation, or its involvement in existing Services, projects or procurements.
- 9.5 All relevant information required to support the Bid should be included in the Bidder's response. Documents specific to the Bid, referenced in the Bid and provided to the CCGs will be considered as part of the Bid. General corporate material and non-specific supporting documentation will not be considered.
- 9.6 Bidders must ensure that each response to a question is not cross referenced to a response or attachment to another question. In the event of a bidder adding a cross reference or a webpage it will not be considered by the evaluation panel.
- 9.7 Bidders are responsible for the accuracy of all information concerning Relevant Organisations and overall responses submitted within their Bids.

## 10. Timetable

- 10.1 The following timetable sets out the indicative timescales for this procurement. Please note that the CCGs may vary the Procurement process to support continued competition, avoid unnecessary costs associated with the Bid and adhere to Technical, legal or commercial guidance issued after the publication of the ITT.
- 10.2 The CCGs appreciate that COVID-19 has placed provider organisations in an inordinate amount of pressure, however proceeding with this tender is a priority to ensure a better service for our patients and hope that the worst of the virus' impact is behind us. We are mindful that we are unable to predict future pressures and are committed to work with bidders and be as flexible as possible should COVID-19 impact on their capacity to respond within the timescales stipulated. Where a bidder is experiencing a particular COVID-19 pressure which is impacting on their ability to respond within the stipulated timescales, they are advised to inform the procurement team, who will review and consider whether an extension might be needed for all bidders.
- 10.3 **The deadline for submission of bids will be 12pm Noon on Friday 18<sup>th</sup> December 2020. Bids that are submitted after this time may not be evaluated.**

**Table 1: Procurement Timetable**

<b>Milestone</b>	<b>Date</b>
Date of opportunity posting to Contracts Finder	Tuesday 17 <sup>th</sup> November 2020
Date ITT available to Bidders	Tuesday 17 <sup>th</sup> November 2020
Latest date / time ITT clarifications questions should be sent through Bravo e-messaging	12pm on Friday 11 <sup>th</sup> December 2020
Latest date / time ITT clarifications answers should be made available to Bidders through Bravo	Tuesday 15 <sup>th</sup> December 2020
<b>Deadlines for Tender Submission</b>	<b>12pm on Friday 18<sup>th</sup> December 2020</b>
Clarifications stage (and meetings if required)	Monday 21 <sup>st</sup> December 2020 – Friday 22 <sup>nd</sup> January 2021
Decision notification	Friday 5 <sup>th</sup> February 2021
Contract Mobilisation	Monday 8 <sup>th</sup> February – Wednesday 31 <sup>st</sup> March 2021
Service Commencement	Thursday 1 <sup>st</sup> April 2021

## 11. Advertising and Expressions of Interest

- 11.1 This procurement has been advertised in the Official Journal of the European Union (OJEU) and on Contracts Finder in compliance with UK treaty obligations and national guidance.
- 11.2 Bidders can express an interest in the tender by accessing the e-procurement portal at Bravo Solution. Expressing an interest will enable access to the procurement documents for Bidders to review.

## 12. Process for Clarifications

- 12.1 The objective of the ITT Bidder clarification stage gives Bidders the opportunity to submit questions to the CCGs where they require clarification on the information contained in the ITT. The ITT Bidder clarification stage will run in line with timetable.
- 12.2 The CCGs have no obligation to respond to clarification questions received after the expiry of the clarification period.
- 12.3 Bidders must submit clarifications via the Bravo messaging system. This is the only method to be used for clarifications and Bidders must NOT contact the CCGs or CSU directly.
- 12.4 The CCGs will endeavour to respond to each clarification question received during the ITT Bidder clarification stage within five (5) business days of receipt. The CCG will distribute ALL clarification questions raised by Bidders and the CCG corresponding responses to all other Bidders during the ITT clarification stage.
- 12.5 Bidders should indicate if a clarification is of a commercially sensitive nature – where disclosure of such query and the answer would or would be likely to prejudice its commercial interests.
- The CCGs at their sole discretion may consider the clarification to be of a commercially confidential nature and restrict the response to the clarification to the relevant Bidder.
  - Alternatively, the CCGs at their sole discretion may consider the clarification to not be commercially sensitive and one which all potential Bidder would potentially benefit from seeing both the query and CCGs' response, the CCGs will:
    - (1) Invite the Bidder submitting the clarification to either declassify the query, modify the clarification or allow the clarification along with the CCGs' response to be circulated to all potential Bidder; or

(2) Request the Bidder, if it still considers the clarification to be of a commercially confidential nature, to withdraw the clarification prior to the end of the closing date and time for Bidder clarifications.

- 12.6 During the ITT Bid Evaluation stage, the CCGs may request written clarification from Bidders on their Bid. Any request by the CCGs for clarification on Bids shall be made in writing through the Bravo e-messaging system. Bidders' responses will normally be required using the Bravo messaging system and within two (2) business days of request.
- 12.7 The CCGs reserve the right to request a meeting with individual Bidders during the evaluation stage to facilitate a rapid clarification of points raised.
- 12.8 Responses to clarification questions provided by Bidders will be distributed to the relevant evaluation panel members to enable their effective scoring of bids.

### 13. Bid Submission and the e-Procurement Portal

- 13.1 Bidders must submit their completed bids by the deadline set in the timetable using the Bravo Solution e-procurement portal.
- 13.2 Bidders are encouraged to use the help function provided within the e-procurement tool as it provides support for both the screen you may be working in as well as for key processes. If you have any software queries refer to online help in the first instance. If you still have an issue email or phone the Jaggaer / Bravo helpdesk Telephone 0800 368 4850 email [help@bravosolution.co.uk](mailto:help@bravosolution.co.uk), ensure you have the ITT code, the web address of the e-procurement portal, a clear description of the problem and your contact details (ensure that you leave plenty of time for issues to be resolved prior to any deadlines).
- 13.3 When using the e-procurement portal Bidders should save their work regularly. For security reasons your access to the portal will 'time out' if inactive for circa 15 minutes. Failure to save means you risk losing your work- this is part of strict government requirements to maintain security and tender integrity and cannot be changed. **NOTE: typing does not mean you are active on the portal - you MUST CLICK 'SAVE'!**
- 13.4 Please ensure that 'pop ups' are NOT blocked on your browser. Should you be inactive for circa 15 minutes, the portal will notify you through a 'pop up'. It is vital that that you can see this to click the 'Refresh' link in this 'pop up' so you are not disconnected from the portal and lose any unsaved information.
- 13.5 Please ensure that you read and digest all the required actions and appropriate deadlines and any subsequent communications made through the messaging system.
- 13.6 You are advised to not leave your response until the last minutes/hours before the deadline (if you experience connection problems you will miss the deadline and your response may be deemed non-compliant and rejected by the CCGs).
- 13.7 Please publish your response when completed, this will submit your response to the system. **If you do not click 'Publish' the CCGs will not be able to evaluate your bid.** The 'Publish' link can be found in the 'Actions' box on the left-hand side of the ITT.
- 13.8 If the procurement team makes any changes to the settings and questions area of a live tender, Bidders must re-publish their response – this is to ensure that changes are brought to your attention – you will receive a message prompt to do this – generally this will not mean re-entering information.
- 13.9 Whilst the e-procurement portal allows for large individual attachment sizes (max 50mb at a time), we recommend that you keep attachments to a manageable size to ensure ease and speed of access. Only attach documents that the CCGs has requested.
- 13.10 Please attach files only to the questions which require attachments.
- 13.11 Do not use the 'Back' or 'Forward' buttons on your browser, you could potentially lose your work. Please use the links on the e-procurement portal to navigate.
- 13.12 Mac users should use a Firefox browser (available free of charge at: <http://www.mozilla.com/firefox>), if you still experience problems with Firefox please call the Jaggaer / Bravo Helpdesk.

- 13.13 Note text responses are deliberately capped at 2000 characters. Also note that Numeric fields will not accept text, spaces, symbols etc. Note the red asterisk indicates a mandatory field - this must be completed to submit your response.
- 13.14 Bidder sub-users can be set up on the portal to allow colleagues to be involved with various stages of the tender – see the online help function for details.
- 13.15 If you are delegating your response, please ensure that your colleagues are aware of this information and that they are relatively PC literate (MS Office/Explorer).
- 13.16 Please treat your procurement portal logins securely - if you believe that you have lost your password - please log onto the website and click onto "Forgotten your password?" and follow the instructions.
- 13.17 Please do not attach any general marketing or promotional material.
- 13.18 You are entirely responsible for the completeness and accuracy of all information provided. The CCGs reserve the right to make whatever enquiries it deems appropriate to verify any information provided and any evidence of or suspicion of any attempt by the Bidder to mislead the Purchaser may result in disqualification.
- 13.19 The Bidder must not give or offer any inducement or reward or do anything improper to influence the selection process. Any such action will immediately disqualify the Bidder.
- 13.20 If any of the information provided in your response changes in a material way at any stage during the Procurement process, then the CCGs must be informed immediately.
- 13.21 Bidders shall ensure they review all attachments to the ITT questionnaires. Attachments may be included within the 'details' and 'attachments' section of Bravo. They may also be attached to a specific question where a blue paperclip icon is shown.
- 13.22 Unless otherwise advise the Bidder will be permitted to upload a zip file with multiple attachments in response to a question which requests a response in the form of an attachment.

#### 14. Canvassing

- 14.1 Subject to the confidentiality and non-collusion sections below Bidders and Relevant Organisations shall not regarding this Procurement:
- Offer any inducement, fee or reward to any officer or employee of the CCG or any person acting as an advisor to the CCGs regarding the procurement exercise; or
  - Do anything which would constitute a breach of the Bribery Act 2010; or
  - Canvass any of the persons referred to above regarding the procurement; or
  - Except as expressly authorised by the CCGs and subject to the provisions of the following section, contact any officer or employee or agent of the CCGs about any aspect of the procurement exercise including (without limitation) for the purposes of discussing the possible transfer to the employment of the Bidder of such employee or officer for the procurement exercise or for soliciting information relating to the procurement exercise.
- 14.2 No attempt should be made to contact the CCGs' project team office by telephone, nor to contact the CCGs or the CCGs' advisers or other NHS/Department of Health and Social Care bodies as part of the procurement process. Any enquiries made to persons other than the CCGs' project team will be regarded as prima facie evidence of canvassing.

#### 15. Confidentiality and Non-Collusion

- 15.1 The tender documents are intended for the exclusive use of the Bidder and is provided on the express understanding that the information made available by the CCGs in relation to this exercise will be regarded and treated as strictly confidential. The documents may not be reproduced in whole or in part nor furnished to any persons other than the Bidder save for the purposes of:

- Taking legal advice about completing a Bid; and/or
  - Obtaining information from Relevant Organisations or funders where required expressly by the tender documents or otherwise where necessary, and relevant to the Bidder's Bid; and/or
  - Obtaining the input from any other parties that Bidders demonstrate will provide information relevant to their Bid, subject always to the CCGs' prior written consent to such disclosure (which it can withhold in its absolute discretion) and provided that in, each case, Bidders obtain from such parties prior to such disclosure, confidentiality undertakings at least equivalent to this Section.
- 15.2 Upon written request from the CCGs, Bidders shall promptly provide evidence to the CCGs that such undertakings have been provided.
- 15.3 Bidders must not disclose to, or discuss any aspect of the tender, or their Bids, with any other Bidder. Any such collusion with another Bidder may constitute an infringement of the Chapter 1 prohibition contained in Section 2(1) of the Competition Act 1998 and the Bidder shall also be liable to disqualification.
- 15.4 Where Relevant Organisations participate in more than one Bid, Bidders must ensure that all Bids are prepared independently and that no confidential information relating to the relevant Bid is passed, whether directly or indirectly, between Bidders.

## 16. Conflicts of Interest

- 16.1 The CCGs require that all actual or potential conflicts of interest are resolved to the CCGs' satisfaction prior to the submission of Bids. If any actual or potential conflict of interest comes to a Bidder's attention following the submission of its Bid, that Bidder should immediately notify the CCGs. Bidders should complete the relevant template for the conflicts of interest (Annex 3 - Bid, FOIA and EIR declarations).
- 16.2 Without limitation, such conflicts of interest may be perceived by the CCGs to arise in circumstances where:
- A Relevant Organisation or any person employed or engaged by or otherwise connected with a Relevant Organisation is carrying out, or has carried out, any work for the CCGs or the DH in the last one (1) year; or
  - A Relevant Organisation (or its advisers or any person employed or engaged by it) is potentially providing Services for more than one prospective Bidder in respect of the Procurement or the Procurement process; or
  - A Relevant Organisation employs or engages, or has employed or engaged, any person currently or formerly employed or engaged by or otherwise connected with the CCGs.
- 16.3 A conflict of interest shall not be deemed to arise solely by a person's employment or engagement by a CCG, NHS England or other NHS body. For example, Dental Practitioners engaged under an existing GDS or PDS Agreement will not be considered to have a conflict of interest by such practising arrangements. However, Bidders are requested to disclose such relationships to the CCGs for information purposes.

## 17. Bidder Changes

- 17.1 Bidders are subject to an ongoing obligation to notify the CCGs of any material changes in their Financial or other circumstances. This includes, but is not limited to, changes to the identity of Relevant Organisations or sub-contractors or the ownership or Financial or other circumstances thereof and solvency of the Bidder. The CCGs should be notified of any material change as soon as it becomes apparent.
- 17.2 Failure to notify the CCGs of any material changes or to comply with any of these provisions may lead to a Bidder being liable for disqualification from the procurement process.

- 17.3 The CCGs reserve the right to refuse to allow such a change and to disqualify any Bidder from further participation in the Procurement process if such a change is made. In exercising its absolute discretion to either refuse or allow such a change, the CCGs may consider whether such change is material to the delivery of the Services.
- 17.4 If the CCGs are prepared to consider such a change, further Bid Evaluation of the bid provided by the Bidder, including its Relevant Organisations, is likely to be required and may result in the CCGs refusing to allow the change.

## 18. Costs and Expenses

- 18.1 All Bidders, Relevant Organisations, funders and any of their respective advisers are responsible for all costs incurred by them relating to all stages of this Procurement.
- 18.2 Under no circumstances will the CCGs or any of their respective advisers be liable for any costs or expenses incurred by a Bidder, its Relevant Organisations, funders and \ or their respective advisers arising directly or indirectly from the Procurement process or termination thereof, including, without limitation any changes or adjustments made to the Procurement process or documentation or disqualification of a Bidder.

## 19. Procurement Process Changes

- 19.1 The CCGs, at their discretion, reserve the right to vary the Procurement process to support continued competition, avoid unnecessary costs associated with a Bid and adhere to Technical, legal or commercial guidance issued after the publication of the ITT.
- 19.2 The CCGs reserve the right to:
- Change dates and times for each stage of the procurement process set out in this document;
  - Modify any aspect or stage of the Procurement process itself and/or to introduce additional steps or stages into the Procurement process to maximise VfM solutions and/or Procurement efficiencies
  - Suspend or cancel the Tender process,
- 19.3 The CCGs will notify the Bidders' Authorised Representative of any such changes.

## 20. Disqualification of Bidders

- 20.1 Bidders, or the Recommended Bidder, acting in contravention of the provisions set out in the ITT or any other information provided by the CCGs may, at the CCGs' sole discretion, be disqualified from further participation in the Procurement (without prejudice to any other civil or legal remedies available and without prejudice to any criminal liability which such conduct by a Bidder may attract).
- 20.2 For the avoidance of doubt, disqualified Bidders will be excluded from any further participation in the Procurement process and in no circumstances, will the CCGs be liable for any costs or expenses incurred by the disqualified Bidder and/or its Relevant Organisations as a result, directly or indirectly, of such disqualification.

## 21. Bidders Authorised Representative

- 21.1 All correspondence relating to the Procurement will be managed through the Bravo e-messaging system. The Authorised Representative must have full authority to represent the Bidder and attend any meetings on the Bidder's behalf. The CCGs may, at any time, request documentary proof of such authority.
- 21.2 Bidders will be responsible for obtaining all information and independent advice that they consider necessary for the preparation of their respective Bids. Bidders must make their own independent assessment of the Procurement after making such investigation and taking such professional advice as they deem necessary.

## 22. Availability of Information

- 22.1 Any information additional to the ITT which the CCGs deem necessary for a Bidder to be issued with, will be sent to each Bidder's Authorised Representative via the e-procurement portal messaging system. It is the Bidder's responsibility to notify the CCGs of any change to the Authorised Representative's name or other contact details.
- 22.2 Where a Bidder intends to use Sub-contractors to provide any of the Services, it will be the responsibility of the Bidder to provide such sub-contractors with all necessary information (subject to the provisions relating to confidentiality).

## 23. CCG Governance Process

- 23.1 When the evaluation panel have determined their recommendation following the bid evaluation and moderation process. The CCGs will follow its internal, regulatory compliant, processes of governance.
- 23.2 The CCGs through this governance process will determine if it will follow the recommendation of the panel based on all relevant reporting made to them by the panel.

## 24. Notification of Decision to Bidders

- 24.1 The CCGs intend to award the contract to a single Bidder or to a single lead bidder where a consortium has been assembled to deliver the service.
- 24.2 All Bidders will be informed on the same day of the outcome of the tender and the identity of the Recommended Bidder.
- 24.3 Following the notification of the decision, the CCGs will engage with the Recommended Bidder to start the mobilisation process and to work toward contracts signature.

## 25. Recommended Bidder Stage

- 25.1 The Recommended Bidder Stage commences on conclusion of the Standstill period. During this stage, the Recommended Bidders will work together with the CCGs to finalise the terms of the Agreement in preparation for the signature of the Agreement. The CCGs reserve the right to re-engage with any other Bidder whose Bids meet the required ITT Bid Evaluation standards.
- 25.2 Assuming a successful completion of the Recommended Bidder stage, the CCGs and the Bidder will sign the final Agreements. The CCGs reserve the right not to award an Agreement to the Recommended Bidders.
- 25.3 The contract to be used is the NHS Standard Contract. The contract is not subject to negotiation. Drafting comments or legal mark-ups of the template Contract will not be accepted. The CCGs reserve the right to ask Bidders to clarify and, where appropriate, revise the precise details of their Bids.
- 25.4 The CCGs reserve the right to conduct any further or necessary due diligence before Contract signature.
- 25.5 Following contract award if the Recommended Bidders:
- Makes a material alteration to the Bid which formed the basis of the evaluation;
  - Does not comply with the provisions and instructions set out in this document;
  - In the reasonable opinion of the CCGs fails to make satisfactory progress towards signature of the Agreement; and/or
  - In the case of any of the above, fails to remedy the situation to the reasonable satisfaction of the CCGs within a defined period having been served notice in writing by the CCGs

then the CCGs shall be entitled to de-select the Recommended Bidder and at the absolute discretion of the CCGs to exclude the Recommended Bidder from any further participation in the Procurement process or to introduce a further competitive stage in the Procurement process in which the Recommended Bidder may or may not (in the absolute discretion of the CCGs) be invited to participate.

- 25.6 Under no circumstances will the CCGs or any of their respective advisers be liable for any costs or expenses incurred by the Recommended Bidder and/or any of its Relevant Organisations due to, or arising from, such de-selection or the introduction of a further stage in the Procurement process

## 26. Contract Signature

- 26.1 All Procurement documentation requiring a signature must be signed by the Authorised Representative of the Bidder or, where a document is required to be executed by a Relevant Organisation, by a representative or representatives duly authorised by that Relevant Organisation. Specific details of signatories to the Agreement will be determined after the Recommended Bidder stage.
- 26.2 The CCGs reserve the right in their absolute discretion not to appoint a Recommended Bidder.

## 27. Procurement Rules

- 27.1 All documentation and communication shall be in English. All bids must be received in pounds sterling.
- 27.2 By submitting this Bid each Bidder warrants that, save as disclosed in writing to the CCGs with the Bid, any information supplied by it remains true and that it has:
- Not passed a resolution, nor is it the subject of an order by the court, for the company's winding-up otherwise than for the purposes of bona fide reconstruction or amalgamation, nor has it had a receiver, manager or administrator on behalf of a creditor appointed in respect of its business or any part thereof, nor is it the subject of proceedings for any of the above procedures nor is it the subject of similar procedures under the law of any other states;
  - Not been convicted of a criminal offence relating to the conduct of its business or profession;
  - Not committed an act of grave misconduct during its business or profession;
  - Fulfilled its obligations relating to the payment of social security contributions under the laws of England and Wales or the country in which it is established;
  - Fulfilled its obligations relating to the payment of taxes under the laws of England and Wales or the country in which it is established;
  - Not made any material misrepresentation in providing any of the information required in relation to the above;
  - Not disclosed, copied, reproduced or distributed and will not disclose, copy, reproduce or distribute any confidential information contained in this document or supplied by the CCGs, or any advisor to any third party at any time except for the purpose of enabling a response to the ITT to be prepared.

## 28. Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), Pensions & "New Fair Deal"

- 28.1 TUPE does apply to this procurement. The CCG have not produced this information at Annex 8 and have no way of validating the veracity of the information. It has been provided by incumbent suppliers. The CCG accepts no liability for the quality of the information and bidders must use their discretion in assessing its usefulness.
- 28.2 The Contracting Authority strongly advises Bidders (for any procurement) to make their own enquiries and seek independent legal advice regarding the TUPE implications relating to this service.
- 28.3 In submitting a Final Tender, Bidders must take account (where applicable) of the need to comply with the requirements of the Government's current policy on public

sector pensions, Fair Deal for Staff Pensions: staff transfers from Central Government, dated October 2013 (“New Fair Deal”) and the subsequent Department of Health guidance issued in March 2014, which states that employees who are members of a public sector scheme (or who have a right to be members of a public sector scheme) and who are the subject of a TUPE transfer to an independent contractor should continue to be members of (and have continued rights of access to) the public service pension scheme they were in (or were entitled to join) immediately prior to the transfer. The policy makes it clear therefore that the contract for a transferred service or function should specifically require the contractor to provide transferred staff with continued access to the relevant public service pension scheme while they remain employed on the public service contract.

- 28.4 Bidders will also need to take account of the need to ensure any sub-contractors forming part of their service delivery model will adhere to requirements of TUPE legislation and the New Fair Deal where applicable.

## 29. Interpretation

- 29.1 In the ITT, except where the context otherwise requires:
- Words importing one gender include all other genders and words importing the singular include the plural and vice versa;
  - Enactment means any statute or statutory provision (whether of the United Kingdom or elsewhere), subordinate legislation (as defined by s.21(1) Interpretation Act 1978 and any other subordinate legislation made under any such statute or statutory provision;
  - A reference to any enactment shall be construed as including reference to: any enactment which that enactment has directly or indirectly replaced (whether with or without modification); and that enactment as re-enacted, replaced or modified from time to time, whether before, on or after the date of the ITT.
- 29.2 The Table of Contents, Glossary of Terms and Abbreviations, the headings to the Sections and Sections of the ITT and any Appendices, Annexes and Volumes hereto are for ease of reference only and shall not affect the construction of the ITT. The Appendices and Annexes form part of the ITT and will have the same force and effect as if expressly set out in the body of the ITT. In the event of any inconsistency between the provisions of the ITT and any previously issued documents, the provisions of the ITT shall prevail; and the ITT shall be governed by and construed in accordance with English Law.

## 30. Procurement Transparency

- 30.1 The government has set out the need for greater transparency across its operations to enable the public to hold public bodies and politicians to account. This includes commitments relating to public expenditure, intended to help achieve better value for money.
- 30.2 As part of the transparency agenda, government has made the following commitments regarding procurement and contracting:
- All new central government ICT contracts over the value of £10,000 to be published in full online from July 2010
  - All new central government tender documents for contracts over £10,000 to be published on a single website from September 2010, with this information to be made available to the public free of charge
  - New items of central government spending over £25,000 to be published online from November 2010
  - All new central government contracts to be published in full from January 2011.

- 30.3 Providers and those organisations looking to bid for public sector contracts, and this includes all NHS contracts should be aware that if they are awarded a new government contract, the resulting contract between the provider and commissioner may be published. In some circumstances, limited redactions will be made to some contracts before they are published to comply with existing law and for the protection of national security.

### **31. Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations (EIR) 2004**

- 31.1 The CCGs are committed to open government and meeting its legal responsibilities under the FOIA 2000 and EIR 2004.
- 31.2 Accordingly, any information created by or submitted to the CCGs (including, but not limited to, the information contained in the ITT, clarification questions and responses, and the minutes of meetings between all or any of the Bidders and the CCGs) may need to be disclosed by the CCGs in response to a request for information.
- 31.3 Any persons may make a request for information at any time before or after the Agreement signature. The CCGs may also decide to include certain information in the relevant publication scheme maintained under the FOIA 2000 and EIR 2004.
- 31.4 In making a submission, each Bidder (and each Relevant Organisation) therefore acknowledges and accepts that the information contained therein may be disclosed under the FOIA 2000 and EIR 2004, either without consulting the Bidder or following consultation with the Bidder and having considered its views.
- 31.5 Bidders must clearly identify any information supplied in response to the ITT within the proforma provided at Annex 3, which they consider to be confidential or commercially sensitive and attach a brief statement of the reasons why, including details of the harm which may result from disclosure and the time period applicable to the sensitivity.
- 31.6 Where it is considered that disclosing that information in response to an FOIA could cause a risk to the Procurement process or prejudice the commercial interest of any Bidder, the CCGs may wish to withhold such information under the FOIA exemption.
- 31.7 However, Bidders should be aware that even where a Bidder has indicated that information is commercially sensitive, the CCGs are responsible for determining in its absolute discretion whether such information is exempt from disclosure under the FOIA or whether or it must be disclosed.
- 31.8 Bidders should therefore note that the receipt by the CCGs of any information marked “confidential” or equivalent does not mean that CCGs accept any duty of confidence by that marking, and that the CCGs have the final decision regarding the disclosure of any such information in response to a request for information.

### **32. UK Data Protection Laws including General Data Protection Regulation (GDPR)**

- 32.1 All Bidders are required to comply with UK Data Protection Laws including the requirements of the GDPR, especially where new systems or processes are being introduced. However, these costs are attributable to conducting business in the EU and not supplying the UK public sector. Bidders will be expected to manage their own costs in relation to compliance. The CCGs shall not accept contract price increases from Bidders as a result of work associated with compliance with new Data Protection Legislation.
- 32.2 The CCGs shall not accept liability clauses where Processors are indemnified against fines or claims under GDPR. The legal penalty regime has been extended directly to Processors to ensure better performance and enhanced protection for personal data, therefore entirely indemnifying Processors for any GDPR fines or court claims undermines these principles.
- 32.3 There may be instances where CCGs or other NHS Bodies are acting as a Joint Controller with a Bidder. In these cases, Article 26 of the GDPR states that Joint Controllers have to have a transparent ‘arrangement’ between them which must ‘duly reflect the respective roles and relationships of the Joint Controllers vis-à-vis the data subjects’.

- 32.4 The GDPR applies to data processing carried out by organisations operating within the EU, including any data processing by those organisations that happens outside the EU. It also applies to organisations outside the EU offering goods or services to individuals in the EU.

### 33. Annexes

- 33.1 There are a range of relied upon Annexes as part of this document. Some are for information to help coordinate your bid and others require completing. The annexes are as follows:

**Table 2: Annexes**

Annex Number	Document
1	Invitation to Tender (this document)
2	Service Specification
3	Bid Declarations and FOIA 2000 and EIR 2004 Caveats
4	Financial Model Template Handbook
5	Financial Model Template
6a	Proposed Contract – Particulars
6b	Proposed Contract – Service Conditions
6c	Proposed Contract – General Conditions
6d	Example Safeguarding Assurance Checklist
6e	Example Quality Schedule (DRAFT)
7	Evaluation model
8	TUPE Information
9	Part 1, 2 and 3 Consortia or Sub Contractor attachment
10	Relevant experience and contract examples

### 34. Copyright

- 34.1 The copyright in the ITT is vested in CCGs. The ITT may not be reproduced, copied or stored in any medium without the prior written consent of the CCGs other than strictly for preparing a Bid.

### 35. Disclaimer

- 35.1 The information contained in the ITT is presented in good faith and does not purport to be comprehensive or to have been independently verified.
- 35.2 Neither the CCGs, nor any of their advisers accept any responsibility or liability in relation to its accuracy or completeness or any other information which has been, or which is subsequently, made available to any Bidder, Relevant Organisation, funders or any of their respective advisers, orally or in writing or in whatever media.
- 35.3 Bidders, their Relevant Organisations, funders and their respective advisers must therefore take their own steps to verify the accuracy of any information which they consider relevant and are not entitled to rely on any statement or representation made by the CCGs or any of their advisers.
- 35.4 The Commissioners shall not be obliged to appoint any of the Bidders and reserves the right not to proceed with this Procurement, or any part thereof, at any time.

- 35.5 Nothing in this ITT is, nor shall be relied upon as, a promise or representation as to any decision by the CCGs in relation to this Procurement. No person has been authorised by the CCGs or its advisers or consultants to give any information or make any representation not contained in this ITT, and, if given or made, any such information or representation shall not be relied upon as having been so authorised.
- 35.6 Nothing in this ITT or any other pre-contractual documentation shall constitute the basis of an express or implied contract that may be concluded in relation to the Procurement, nor shall such documentation/information be used in construing any such contract. Each Bidder must rely on the terms and conditions contained in any contract when, and if, finally executed, subject to such limitations and restrictions that may be specified in such contract. No such contract will contain any representation or warranty in respect of the ITT or other pre-contract documentation.

## Appendix A – Glossary of Terms

Term	Definition
Authorised Representative	A Bidder's authorised representative named on the ITT
Bid	A Bidder submission in response to the ITT which is a Compliant Bid
Bidder	A single operating organisation/person that has expressed an interest in delivering the service, responded to the Contracts Finder ad/OJEU notice and invited to participate in the ITT stage and which is Bidding for the Procurement
Bidder Member	A shareholder or member or proposed shareholder or member in, or controlling entity of, the Bidder and / or that shareholder's or member's or proposed shareholder's or member's ultimate holding company or controlling entity.
Commencement Date	The date on which the Agreement will come into force
CCG	Clinical Commissioning Group or predecessor body
Clinical Services Providers	All providers providing clinical Services which are the subject of the Agreement
CCGs	The Clinical Commissioning Group commissioning the Procurement
Contractor	The successful Bidder who enters into a Contract with the CCGs to provide the Specialist Bladder & Bowel Service to NHS Southport & Formby CCG and NHS South Sefton CCG
Compliant Bid	A Bid which meets the criteria of all pass / fail questions
CPD	Continuing Professional Development
CQC	Care Quality Commission
CSU	NHS Midlands and Lancashire Commissioning Support Unit
DH	Department of Health
EOI	Expression of Interest
EIR	Means Environmental Information Regulations 2004 and any subordinate legislation made under that Act from time to time, together with any guidance and / or codes of practice issued by the Information Commissioner, the Department of Constitutional Affairs, the Efficiency and Reform Group and the NHS in relation to such legislation or relevant codes of practice to which the DH and the CCG is subject
Evaluator/s	A person or persons who reviews and evaluates the Bidders responses to the ITT.
FMT	Financial Model Template or Schedule of Rates

FOIA / Freedom of Information Act	The Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time, together with any guidance and / or codes of practice issued by the Information Commissioner, the Department of Constitutional Affairs, the Office of Government Commerce and the NHS in relation to such legislation or relevant codes of practice to which the DH and/or the CCG is subject.
HR	Human Resources
IM and T	Information Management and Technology
ITT	Invitation to Tender sent to Bidders who expressed an interest in delivering the service
ITT Bid Evaluation	The evaluation of the ITT that is carried out by the Evaluator/s
Jaggaer / Bravo e-procurement portal	The e-procurement portal which is being used to conduct this procurement on behalf of the CCG by MLCSU
NHS	National Health Service
NHSBSA	National Health Service Business Service Authority
Procurement	The activity of purchasing the Services.
Recommended Bidder	The Bidder selected to proceed to Recommended Bidder stage and ultimately Contract signature.
Relevant Organisation	An organisation(s) or person connected with a Bid submission including (without limitation): The Potential Bidder; the Bidder; each Clinical Services Provider, each Bidder Guarantor, and each Bidder Member.
Service/s	The Services being procured by the CCG to be delivered through the Contract and which are detailed in the ITT Questionnaire.
Sub-contractor/s	A person or body who is contracted by the Bidder to carry out all or part of the Service/s. It should be noted that the Bidder is liable for any sub-contractor it uses in respect of delivering the Service/s.
TUPE	Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI/2006/246)
VAT	Value Added Tax
WTE	Whole Time Equivalent

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