



# Department of Health

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[www.dh.gov.uk](http://www.dh.gov.uk)

17 November 2016

Dear Bidder

## **Strictly Private and Confidential**

### **Proposed sale of 74.9% stake in NHS Professionals Ltd by the Department of Health – Pre-Qualification Phase Process Letter**

We would like to thank you, on behalf of the Department of Health ("**DH**") and NHS Professionals Ltd ("**NHSP**") for indicating an interest in investing in and developing NHSP (the "**Proposed Transaction**").

Whilst DH do not believe that the Competition (as defined in the attached Summary Information Document) related to this Proposed Transaction is governed by the Public Contracts Regulations 2015 (the "**Regulations**"), DH is committed to a fair and transparent competitive process and has voluntarily advertised this opportunity in the Official Journal of the European Union ("**OJEU**"). Accordingly, DH will conduct a competition which bears some similarity to the Competitive Procedure with Negotiation set out within the Regulations.

DH has retained Deloitte as financial adviser and Pinsent Masons as legal adviser in connection with the Proposed Transaction. Please note that all defined terms within the Pre-Qualification Documentation are set out within the Summary Information Document.

### **Transaction Objectives**

The overall objective of the Proposed Transaction is to bring a new majority shareholder into NHSP, who can help the business to deliver value for money and low cost flexible staffing solutions for its customers, whilst meeting the appropriate quality standards in today's National Health Service ("**NHS**"). DH intends to conduct the Competition to identify a Preferred Partner as efficiently as possible and in a manner that will minimise disruption to NHSP and its management, employees, customers and suppliers.

DH intends that, post-completion of the Proposed Transaction, NHSP is classified as a private sector entity.

## Transaction Structure

DH currently intends to sell 74.9% of the shares in NHSP. Please note that it is currently DH's intention to sell the shares in NHSP to a single bidder or consortium vehicle and not to multiple parties.

## Transaction Process

The Proposed Transaction is expected to proceed through two stages of competition:

- Pre-Qualification Phase
- A phased ITN (currently expected to consist of Phase 1 – Initial Responses; Phase 2 – Final Bids)

## Pre-Qualification Phase

The Preferred Partner will be able to demonstrate that they can contribute the appropriate investment and innovation to transform and improve NHSP to maximise the Transaction Objectives stated above. This will be tested via the questions in the Pre-Qualification Questionnaire (PQQ), and in particular we draw your attention to the qualitative questions at section 6 of the PQQ, during which we will assess the following key subject areas:

- Partnership and culture
- Client value proposition
- Driving business change
- Service innovation and Investment
- Workforce management
- Challenges and Solutions.

Please find attached the "**Pre-Qualification Documentation**":

- The "**Teaser**" which provides summary information on NHSP
- The Summary Information Document ("**SID**") which contains further detail on the Transaction Objectives and outlines the Terms of the Competition
- The Pre-Qualification Questionnaire ("**PQQ**") which sets out the questions which Potential Partners must respond to in order to secure an invitation into the next stage of the Competition
- and this "**Process Letter**".

In addition to the Pre-Qualification Documentation detailed above there will also be a presentation by **DH and NHSP** on **25 November 2016**.

Please read the Pre-Qualification Documentation and respond to the questions in the PQQ in line with the response guidance provided within the PQQ and the SID.

The deadline for submission for the PQQ response is **6.00pm (GMT) on Friday 16 December 2016** as indicated in the Pre- Qualification Documentation.

### **Conflicts of Interest**

Particular attention is drawn to section 4 of the SID and question 3 of the PQQ, whereby Potential Partners are asked to outline any real, perceived and/or potential conflicts of interest which they may have in relation to the Competition. Potential Partners will be asked to explain how any such conflicts of interest will be mitigated and managed throughout the Competition, and in the event of a successful offer. It is a condition of the Competition that Potential Partners satisfy DH as regards conflicts of interest, particularly in the context of any business that Potential Partners might currently have which is in competition with NHSP. Failure to do so will lead to disqualification from the Competition.

### **ITN Phase 1 – Initial Responses**

If you are selected to proceed to the next phase of the Competition, we will provide further information at that time which may include:

- An Information Memorandum on NHSP
- A management presentation
- Due diligence report, including financial, tax and IT (produced by PwC)
- A market report (produced by LEK Strategy Consultants)
- A Business Plan (produced by NHSP)
- Legal Commentary (produced by Pinsent Masons)
- Key Commercial Principles of all legal agreements pertaining to the transaction (e.g. Share Purchase Agreement, Articles of Association, Shareholders Agreement, NHS brand licence)
- A virtual data room
- Other relevant information.

During the ITN stage it is expected that there will be a Final Bid stage with further details of the process to be provided in due course.

### **Clarifications**

You are welcome to ask clarification questions in relation to the Pre-Qualification Documentation, however we require that all clarification questions must be referenced 'Project Florence Clarification' and submitted via [Supplier.Helpdesk@dh.gsi.gov.uk](mailto:Supplier.Helpdesk@dh.gsi.gov.uk)

You are also welcome to request a clarification call or meeting by submitting your request to [Supplier.Helpdesk@dh.gsi.gov.uk](mailto:Supplier.Helpdesk@dh.gsi.gov.uk) . Timings and further detail in relation to any clarification meetings will be issued in due course.

Potential Partners may not address queries to, or communicate with, DH or its advisors other than in the manner provided above. Any queries or clarifications arising from the Pre-Qualification Documentation should be raised in writing via the email address above as soon as possible and, in any event, **no later than 5.00pm (GMT) on Friday 9 December**

**2016** (1 week before the deadline for PQQ Responses). DH may at its absolute discretion (but shall not be obliged to) respond to queries submitted after this date.

All queries received, together with replies and clarifications on the points raised, may be circulated to all Potential Partners who have requested the Pre-Qualification Documentation. This will be done via the BMS portal, therefore Potential Partners should monitor the portal regularly.

The response to a query will be circulated to all Potential Partners unless the query is marked "Confidential" at the time of submission, in which case, provided DH agrees with the "Confidential" marking, it will be sent only to the Potential Partner that submitted the query. If DH disagrees with the "Confidential" marking, it will state its reasons for doing so and seek the written agreement of the Potential Partner to either remove the "Confidential" marking or withdraw the query. If the marking is removed, the response to the query will be communicated to all Potential Partners. If the query is not withdrawn, DH reserves the right to send the response to the query to all Potential Partners if it considers it necessary on the grounds of non-discrimination, equal treatment or transparency. DH's decision on such matters will be final.

You are reminded that, by engaging in the Pre-Qualification Phase, you are bound by the Terms of the Competition comprised within this letter, the SID and the PQQ, irrespective of whether or not a PQQ Response is submitted. The Pre-Qualification Documentation is Confidential Information as defined in the Terms of the Competition and you are not permitted to disclose the contents thereof except as expressly permitted under the Terms of the Competition.

### **Other Information**

The Pre-Qualification Documentation and any related materials do not, and shall not be construed as, a solicitation, an invitation or an offer to buy or sell securities, or form the basis of any such solicitation, invitation or offer, nor can be relied upon in any decision to enter into any sale, a commercial agreement or a transaction of any sort, and do not create any commitment or obligation of any sort on the part of DH or NHSP.

DH anticipates that the nature of the NHSP business is such that this opportunity will likely be of interest both within and outside of the European Union and therefore highlights the following information to Potential Partners.

The distribution of this letter or the Pre-Qualification Documentation or any related materials in jurisdictions other than the United Kingdom may be restricted by law. This letter and the Pre-Qualification Documentation and any related materials are not directed at any person in any jurisdiction where such distribution would constitute a contravention of such law. Any failure to comply with these restrictions may constitute a violation of the laws of any such other jurisdiction. By accepting this letter, and/or by submitting a PQQ Response and/or by otherwise continuing to participate in the sale process, you are deemed to represent and warrant that you are able to receive this letter and Pre-Qualification Documentation and any related materials without contravention of any legal

or regulatory requirement or restrictions in the jurisdiction in which you reside or conduct business.

None of Her Majesty's Government Parties ("**the HMG Parties**", as defined in the SID) or DH advisors accepts any liability to any person in relation to the distribution or possession of this letter or Pre-Qualification Documentation in any jurisdiction.

This letter is only distributed to and directed to a limited number of recipients to whom DH is permitted to send this document under the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the "**Order**"). The shares referred to in this document are only being offered to the public in the United Kingdom (within the meaning of sections 85(1) and 102B of the Financial Services and Markets Act 2000 (as amended) ("**FSMA**") in circumstances where an exemption from the requirement to make an approved prospectus under section 86(1) of FSMA applies. No offer of securities is being or will be made in circumstances which would require a prospectus or similar document to be approved.

This document is only being distributed on the basis that any proposal to purchase securities in NHSP made in due course must be to acquire day to day control of the affairs of the company. This communication is exempt from the general restriction (in section 21 of FSMA) on the communication of invitations and inducements to engage in investment activity on the grounds that it is made in respect of the sale of a body corporate falling within Article 62 (Sale of body corporate) of the Order. The content of this communication has not been approved by an authorised person and such approval is not required by section 21 of FSMA.

This letter has been prepared on the basis that any person purchasing an interest in NHSP is a person or entity having such knowledge and experience of financial matters as to be capable of evaluating the merits and risks of such purchase. Before making any investment decision, purchasers should conduct such independent investigation and analysis regarding NHSP and securities of NHSP or its holding company (collectively, "**NHSP securities**") as they deem appropriate to evaluate the merits and risks of such investment. In making any investment decision with respect to NHSP, investors must rely (and will be deemed to have relied) solely on their own independent examination of NHSP and the terms of the Proposed Transaction, including the merits and risks involved. Before making any investment decision with respect to NHSP, prospective investors should consult their own counsel, accountants or other advisers and carefully review and consider such investment decision in light of the foregoing.

NHSP securities have not been and will not be registered under the U.S. Securities Act of 1933, as amended (the "**Securities Act**"), or under the securities laws of any state of the United States, and, accordingly, any such securities may not be offered, sold, resold, exercised, pledged, transferred or delivered except (i) outside the United States in "offshore transactions," as defined in Regulation S under the Securities Act, or (ii) within the United States by or to "qualified institutional buyers" ("**QIBs**") pursuant to the exemption from the registration requirements provided by Section 4(a)(2) of the Securities Act. Any NHSP securities sold in the United States in the context of the exemption

provided by Section 4(a)(2) of the Securities Act will be subject to certain transfer restrictions.

Any person that acquires NHSP securities will be deemed to have represented and agreed either that (i) it is acquiring such securities in an “offshore transaction” as defined in Regulation S under the Securities Act or (ii) it is a QIB, in which case it may be required to sign an investor letter containing customary representations.

No NHSP securities have been recommended by any U.S. federal or state securities commission or any other U.S. federal, state or foreign regulatory authorities and they have not determined that this document is accurate or complete. Any representation to the contrary is a criminal offence in the United States.

By submitting a PQQ Response you agree not to make any claim against the HMG Parties or NHSP with respect to this Competition in the event that discussions do not lead to a definitive agreement with you or if DH pursues or accepts any other proposal or transaction.

Your attention is also drawn to the disclaimer in the SID and the Teaser.

By accepting this letter, and/or by submitting a PQQ Response and/or by otherwise continuing to participate in this Competition you confirm your full understanding and agreement with the terms and conditions set out in this letter and in the SID.

We appreciate your interest in NHSP and look forward to receiving your PQQ submissions by the date indicated in the Pre-Qualification Documentation.

Yours sincerely



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