

## Invitation to tender for the provision of Custom Ear Moulds

## Authority's reference number TSDFT 266

## Deadline for Tenders to be received: 03/03/2023

## **SECTION A – INSTRUCTIONS AND INFORMATION**

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1. INTRODUCTION AND BACKGROUND

## Torbay and South Devon NHS Foundation Trust ("**the** **Authority**") is issuing this invitation to tender ("**ITT**") in connection with the competitive procurement of Custom Ear Moulds and Swim Plugs

* 1. This ITT Section A contains further information about the procurement process.
  2. ITT Section B contains the questions that Bidders must complete. Each Bidder's response ("**Tender**") should be detailed enough to allow the Authority to make an informed award decision.
  3. All Tenders must be returned no later than the deadline for receipt of Tenders specified on the front cover of this ITT.
  4. The Authority is using an e-tendering portal to conduct the procurement process. All communications (including submission of Tenders) should be carried out via the Atamis e-Tendering Portal.
  5. This procurement process is not regulated by Parts 2 and 3 of the Public Contracts Regulations 2015.

# Contents of the ITT

* 1. This ITT document consists of:

|  |  |
| --- | --- |
| **Section A – Instructions and information** | |
| 1 | Introduction and background |
| 2 | Tender timetable |
| 3 | Instructions to Bidders |
| 4 | Tender evaluation methodology and criteria |
| Annex A1 | NHS Terms and Conditions |
| **Section B – Tender Schedules (to be returned by Bidders)** | |
| Annex B1 | Eligibility questions and responses |
| Annex B2 & B3 | Specification & Tender Response |
| Annex B4 | Commercial Schedule |
| Annex B5 | Confidential and commercially sensitive information |  |
| Annex B6 | Form of Tender |  |

# Introduction to the procurement

* 1. Torbay and South Devon NHS Foundation Trust is an integrated organisation providing acute health care services, community health services and adult social care. The Authority runs Torbay Hospital, a number of community hospitals and health & wellbeing centres.
  2. The Authority is tendering for the provision of Ear Moulds and Swim Plugs in order to issue a 3-year contract with 1-year + 1-year extension options. It is estimated that the 3-year contract will be in the region of £65,000 +VAT
  3. Full details of the Authority's requirements are set out in the Specification in Annex B2 of Section B.

# Questions about this ITT

* 1. You may submit, by no later than 17/02/2023 any queries that you have relating to this ITT. Please submit such queries via the e-Tendering Portal.
  2. Any specific queries should clearly reference the appropriate paragraph in the ITT documentation and, to the extent possible, should be aggregated rather than sent individually. The Authority may decline to answer queries received after the above deadline.
  3. Answers to the questions received by the Authority will be circulated to all Bidders via the e-Tendering Portal. Answers will not reveal the identity of the individual Bidder that asked a particular question. The Authority may decide not to disclose answers, or parts of answers, which would reveal confidential or commercially sensitive information in relation to a particular Bidder.

1. TENDER TIMETABLE

# Key dates

* 1. The procurement will follow a clear, structured and transparent process to ensure a fair and level playing field so that all Bidders are treated equally.
  2. The key dates for this procurement are currently anticipated to be as follows:

|  |  |
| --- | --- |
| **Event** | **Date** |
| ITT issued | 02/02/2023 |
| Deadline for the receipt of clarification questions | 17/02/2023 |
| Target date for responses to clarification questions | 24/02/2023 |
| Deadline for receipt of Tenders | 03/03/2023 |
| Evaluation of Tenders | 06/03/2023 – 07/04/2023 |
| Notification of contract award decision | 10/04/2023 |
| Contract Award | 17/04/2023 |
| Contract commences | 01/05/2023 |

* 1. Whilst the Authority does not intend to depart from the timetable, it reserves the right to do so at any stage.

# Deadline for receipt of Tenders

* 1. Bidders must submit their Tenders in the manner prescribed in section 3 below no later than the date and time specified on the front cover of this ITT.
  2. Any Tender received after the deadline or by any method other than via the e-Tendering Portal may not be considered. The Authority may at its discretion extend the deadline and in such circumstances the Authority will notify all Bidders of any change.
  3. Contract award is subject to the formal approval process of the Authority. Until all necessary approvals are obtained no contract(s) will be entered into.

# Contract award

* 1. Contract award is subject to the formal approval process of the Authority. Until all necessary approvals are obtained and the voluntary standstill period completed, no contract(s) will be entered into.
  2. Once the Authority has reached a decision in respect of a contract award, it will notify all Bidders of that decision and provide for a voluntary standstill period before entering into any contract(s).

1. INSTRUCTIONS TO BIDDERS

# Formalities for submission of Tenders

* 1. Bidders must submit their Tenders by completing the Annexes to Section B of the ITT. Completed Tenders must be submitted using the e-Tendering Portal. Bidders should ensure that they allow plenty of time to upload the Tender response, particularly where there are large documents. If Bidders have any problems with the e-Tendering Portal, they should contact the helpdesk on 0800 840 2050.The helpline is open Monday to Friday between 08:00 to 17:00 excluding public and bank holidays. As noted above, any Tender received after the deadline may not be considered.
  2. Do not embed documents within other documents. Instead provide separate electronic copies of the documents, clearly labelled and referenced if necessary.
  3. The Tender must be in English and drafted in accordance with the drafting guidance set out in this ITT.
  4. The Tender shall be in Microsoft Office or PDF compatible formats.
  5. Where a word count limit is specified, the Authority reserves the right not to consider any part of a response exceeding the word limit. Words included within diagrams or other graphic representations may count towards the word limit. Use of Bullet Points is encouraged.
  6. The Tender must be clear, concise and complete. The Authority reserves the right to mark Bidders down or exclude them from the procurement if their Tenders are ambiguous or lack clarity. Bidders should submit only such information as is necessary to respond effectively to this ITT. Unless specifically requested, do not include extraneous presentation materials.
  7. Tenders will be evaluated on the basis of information submitted by the deadline. Where information or documentation submitted appears to be incomplete or erroneous or specific documents are missing, the Authority reserves the right to request the Bidder to submit, supplement, clarify or complete the information or documentation.
  8. The Tender must be signed by a duly authorised representative of the Bidder.

# Modification and withdrawal of Tenders

* 1. Except as set out in paragraph 3.7, no Tender may be modified after the deadline for receipt of Tenders.
  2. Tenders may be withdrawn at any time before the deadline for receipt of Tenders. Revised Tenders may be submitted up until the deadline for receipt of Tenders.

# Terms and conditions

* 1. The contract will include the NHS Terms and Conditions set out in Annex A1. It is vital that the Bidder reviews these carefully, and takes account of all information such as key performance indicators and insurance requirements and that the Tender fully takes account of these. By submitting a Tender, Bidders are agreeing to be bound by the terms of this ITT and the NHS Terms and Conditions without further negotiation or amendment.

# Consortia and subcontractors

* 1. If the Bidder is a consortium or will rely on sub-contractors to deliver the contract, it must explain in its Tender precisely which entities will be the supplier.
  2. If the Bidder intends to sub-contract any material parts of the contract, it must explain which parts will be sub-contracted, who the sub-contractor is, confirm the sub-contractor has agreed terms of supply and what contractual commitment it has from the sub-contractor to deliver.

# Warnings and disclaimers

* 1. While the information contained in this ITT is believed to be correct at the time of issue, neither the Authority nor its advisors will accept any liability for its accuracy, adequacy or completeness, nor will any express or implied warranty be given. This exclusion extends to liability in relation to any statement, opinion or conclusion contained in or any omission from, this ITT (including its annexes) and in respect of any other written or oral communication transmitted (or otherwise made available) to any Bidder. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of the Authority.
  2. If a Bidder proposes to enter into a contract with the Authority, it must rely on its own enquiries and on the terms and conditions set out in the contract(s) (as and when finally executed), subject to the limitations and restrictions specified in it.
  3. Neither the issue of this ITT, nor any of the information presented in it, should be regarded as a commitment or representation on the part of the Authority (or any other person) to enter into a contractual arrangement.

# Freedom of Information Act 2000 and Environmental Information Regulations 2004

* 1. As a public body, the Authority is subject to, and must comply with, the Freedom of Information Act 2000 ("**FOIA**") and the Environmental Information Regulations 2004 ("**EIR**"). The Authority may therefore be required to disclose information submitted by the Bidder.
  2. If a Bidder considers any part of its Tender to be confidential or commercially sensitive, it must complete Annex B5 to Section B of this ITT, with a statement of which exemptions are relevant under FOIA and/or the EIR.
  3. Where a Bidder identifies information as commercially sensitive, the Authority will take those views into account. Bidders should note, however, that, even where information is identified as commercially sensitive, the Authority may be required to disclose such information in accordance with FOIA or the EIR. Accordingly, the Authority cannot guarantee that it will withhold information marked ‘confidential’, 'commercially sensitive' or otherwise exempt.

# Publicity

* 1. No publicity regarding the procurement or the award of any contract will be permitted unless and until the Authority has given express written consent to the relevant communication.

# Bidder conduct and conflicts of interest

* 1. Any attempt by Bidders or their advisors to influence the contract award process in any way may result in the Bidder being disqualified. Specifically, Bidders shall not directly or indirectly at any time:
     1. devise or amend the content of their Tender in accordance with any agreement or arrangement with any other person, other than in good faith with a person who is a proposed partner, supplier, consortium member or provider of finance;
     2. enter into any agreement or arrangement with any other person as to the form or content of any other Tender, or offer to pay any sum of money or valuable consideration to any person to effect changes to the form or content of any other Tender;
     3. enter into any agreement or arrangement with any other person that has the effect of prohibiting or excluding that person from submitting a Tender;
     4. canvass the Authority or any employees or agents of the Authority in relation to this procurement; and/or
     5. attempt to obtain information from any of the employees or agents of the Authority or their advisors concerning another bidder or Tender (except for debrief information requests made through the e-Tendering Portal).
  2. Bidders are responsible for ensuring that no conflicts of interest exist between the Bidder and its advisers, and the Authority and its advisors. Bidders should notify the Authority promptly of any possible conflict and the proposed steps that the Bidder believes can be taken to avoid the conflict. Any Bidder who fails to comply with these requirements may be excluded from the procurement at the discretion of the Authority.

# Authority's rights

* 1. Subject to its obligations to act in a transparent, proportionate and non-discriminatory manner, the Authority reserves the right to:
     1. waive or change the requirements of this ITT from time to time;
     2. seek clarification or documents in respect of a Bidder's submission;
     3. disqualify any Bidder that does not submit a compliant Tender in accordance with the instructions in this ITT;
     4. disqualify any Bidder that is guilty of serious misrepresentation in relation to its Tender or the Tender process;
     5. withdraw this ITT at any time, or re-invite Tenders on the same or any alternative basis;
     6. choose not to award any contract as a result of the current procurement process; and
     7. make whatever changes it sees fit to the timetable, structure or content of the procurement process.

# Bid costs

* 1. The Authority will not be liable for any bid costs, expenditure, work or effort incurred by a Bidder in proceeding with or participating in this procurement, including if the procurement process is terminated or amended by the Authority.

# Language

* 1. Tenders, all documents and all correspondence relating to the Tender must be written in English.

# Transparency

* 1. In accordance with the Public Contracts Regulations 2015 and the Government’s policy on transparency, Bidders should be aware that the Authority intends to make the ITT and details of any subsequent contract publicly available, by publication on the Government's Contracts Finder portal.

# Governing Law and Jurisdiction

* 1. This ITT and any dispute concerning it (including non-contractual disputes or claims) shall be governed by English law and subject to the jurisdiction of the English Courts.

1. TENDER EVALUATION METHODOLOGY AND CRITERIA

# Overview

* 1. This section of the ITT sets out the criteria that the Authority will use to evaluate Tenders.
  2. Bidders are required to submit a Tender strictly in accordance with the requirements set out in this ITT, to ensure the Authority has the correct information to make the evaluation. If a Tender is equivocal or unclear, the Authority may deduct marks when scoring it, or it may treat the Tender as non-compliant and reject it.
  3. The Authority will award the contract to the Tender that scores the highest marks, applying the methodology below. Scoring will be carried out as follows:
     1. The Bidder must pass all eligibility questions in Annex B1 of Section B (Annex of eligibility questions and responses) ("**Eligibility Questions**").
     2. The Authority will then mark Annex B2 of Section B (Specification and Tender Response Document) for all Bidders that pass all the Eligibility Questions.
  4. The Authority will mark Eligibility Questions as described in paragraphs 4.5 to 4.7 below. It will mark the Scored Questions as described in paragraphs 4.8 to 4.11

# Criteria – Eligibility Questions

* 1. The Authority will score Eligibility Questions on the following basis:

|  |  |
| --- | --- |
| Eligibility Questions | Selection criteria |
| 1. Supplier information | For information only |
| 1. Grounds for mandatory exclusion | Pass or Fail |
| 1. Grounds for discretionary exclusion | Pass or Fail |

* 1. To score a "pass" for the Eligibility Questions, the Tender must adequately address all key points and include adequate supporting evidence / examples / information. It must give a reasonable degree of confidence that the Bidder has the capability, resource and experience to properly perform the contract.
  2. Where a Bidder scores a "fail" for any question, the Authority will treat the Tender as non-compliant and it will not award a mark for the Scored Questions.

# Criteria – Scored Questions

* 1. Where specified, a minimum pass threshold applies to the evaluation criteria. The Authority shall reject any Tender which does not meet the relevant Threshold in respect of one or more criteria.

|  |  |  |
| --- | --- | --- |
| **Evaluation criteria** | ***Minimum threshold percentage*** | **Weighting** |
| Device & Delivery cost | N/A | 40 |
| Product Quality and Accuracy to impression mould | 30 | 40 |
| Social Value | N/A | 10 |
| Device Turnaround Time | N/A | 10 |
| **Total** |  | 100% |

# Criteria – Scored Questions: Cost evaluation

* 1. Tender prices will be scored on a comparative basis, with the lowest compliant Tender (excluding any Tenders that the Authority rejects as being abnormally low or non-compliant) receiving 100% of the available marks 40% following weighting). All other Tenders will be compared against that lowest Tender using the formula:

## (A / B) x100

## A = price of lowest compliant Tender

## B = price of the Tender being scored

* 1. If it appears to the Authority that any Tender may be abnormally low then the Authority may ask the Bidder to explain its price or costs. If following the Bidder's explanations the Authority is not satisfied with the Bidder's account for the low level of price or cost in the Tender, the Authority may treat the Tender as non-compliant and reject it.

# Criteria Each Specification question will be scored in accordance with the table below:

|  |  |  |
| --- | --- | --- |
| **Grade label** | **Grade** | **Definition of Grade** |
| Unacceptable | 0 | The proposal completely fails to meet the required standard or does not provide an answer |
| Poor | 1 | The proposal significantly fails to meet the standards required, contains significant shortcomings or is inconsistent with other aspects of the Tender |
| Weak | 2 | The proposal meets the required standard in most material respects, but is lacking or inconsistent in others |
| Good | 3 | The proposal meets the required standard in all material respects |
| Excellent | 4 | The proposal meets the required standard in all material respects and exceeds some or all of the major requirements |

The score for each question will then be multiplied by the weight indicated in the specification for that question. These weighted scores will be totalled and then divided by the maximum amount of marks available to determine a percentage score. If this score is lower than the minimum percentage threshold stated in 4.8 your bid maybe rejected.

**Criteria – Scored Questions: Total Weighted Score**

* 1. Weighted scores from each scored criterion will be totalled and the tender with the highest overall score will be the winner of the competition.
  2. Following the receipt of tenders an initial evaluation of specification criteria 1, 2 & 3 will take place. Following this the suppliers of the 3 highest scoring bids will be sent impressions to create ear moulds from. There will be no more than 5 impressions sent to each supplier. These should be processed and delivered back to the trust for product accuracy and quality evaluation. As this forms part of the tender evaluation we expect this to be provided free of charge for the purposes of this tender.

**ANNEX A1  
NHS TERMS AND CONDITIONS**

The Authority intends to enter into a contract with the successful Bidder on the NHS Terms and Conditions for the Provision of Services.

This Annex A1 contains the NHS Terms and Conditions.

The Specification and Tender Response Document are set out in Annex B2 section of this ITT.

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