



NHS Medway CCG

**Autistic Spectrum Conditions
Diagnostic Assessment Service
Procurement**

Invitation to Tender

Memorandum of Information

Commercial in Confidence

Tender Closing Date :

12:00 12 October 2018

Table of Contents

1	Executive summary	4
1.1	Purpose of this Document	4
1.2	Organisation of this document	5
1.3	Next Steps for Bidders	6
2	Introduction and Overview	7
2.1	Aims, Objectives and Scope of the Service	7
2.2	CCG Policy context	7
2.3	Objectives of this Procurement	8
2.4	Scope and Structure of the Procurement	8
2.5	Bidder Pool	9
3	Procurement process overview	10
3.1	Procurement timeline	10
3.2	Procurement approach	10
3.3	Advert, MOI and EOI	10
3.4	Procurement Process Overview	11
3.5	Procurement Procedure	12
3.6	Procurement Timetable	12
3.7	Bid preparation & Due Diligence	13
3.8	Bid Submission Requirements	14
3.9	Document formats	14
3.10	General	15
3.11	Contract Award	16
3.12	Service Commencement	16
4	Commercial Framework	17
4.1	Contract	17
4.2	Contract Duration	17
4.3	Subcontracting	17
4.4	Payment Mechanism	18
4.5	Quality and Performance Monitoring	18
4.6	Workforce	18
4.6.1	Policies and Strategies	18
4.6.2	Staff Transfers (TUPE and pensions)	19

4.7	IMT	19
4.8	Financial Standing and Funding	20
4.9	Performance Security	20
4.10	Insurance.....	20
5	Governance and Administration.....	22
5.1	Procurement Costs	22
5.2	Consultation.....	22
5.3	Regulations.....	22
5.4	Non-collusion and Canvassing	23
5.5	Freedom of Information	23
5.6	Compliance with other legal disclosure requirements.....	24
5.7	Disclaimer.....	24
5.8	Copyright	25

1 Executive summary

1.1 Purpose of this Document

This Memorandum of Information (MOI) describes the procurement (the Procurement) by NHS Medway CCG (referred to as the Commissioner) of a Autistic Spectrum Conditions Diagnostic Assessment Service (ASC DAS) (referred to as The Service).

Due to the fluctuations in referral patterns, the contractual arrangement will be open to adjacent (i.e. other Kent and Medway) CCGs as a referral pathway in order to assist with maintaining service continuity for NHS Medway CCG patients and in turn adjacent CCGs. This will be on the basis that the adjacent CCG manage their own payment and referral process with the provider with no recourse to NHS Medway CCG other than the normal contractual monitoring requirement as lead commissioner. In turn, the provider remains responsible for managing patient flows in the most economic and efficient manner in order to reduce the likelihood of waiting lists developing due to insufficient allocated resource to meet demand. Individual CCG's remain responsible for their own performance information supplied in support of invoices or activity.

The MOI gives details of:

- the Procurement and its objectives
- the Commissioner service objectives and requirements
- the Procurement process
- the Procurement commercial framework, and
- the Procurement governance and administration requirements.

The purpose of this MOI is to provide potential Bidders with sufficient information on the Procurement to enable them:

- To make an informed decision about whether they wish to participate, and
- To submit an Expression of Interest (EOI) by registering on the Bravo system and specific ITT.

The Commissioner are supported and advised in the Procurement by NHS Commercial Solutions (NHS CS).

1.2 Organisation of this document

This MOI is organised into the following sections:

Section	Purpose
Section 1 - Purpose, structure and next steps for Bidders	Detailing the purpose and organisation of the MOI and the next steps for Bidders.
Section 2 - Introduction and overview	Detailing the background and objectives to the Procurement, the scope of services to be procured, the bidder pool and the factors critical to the success of the Procurement.
Section 3 - Procurement process overview	Detailing the steps involved in the Procurement.
Section 4 - Commercial framework	Detailing the key commercial terms and other legal and contractual arrangements for the Procurement.
Section 5 - Governance and administration	Detailing key governance and administration requirements of the Procurement.

Further important information is contained in the Annexes, including :

Annex A : Indicative timetable for the procurement

Annex B : Service Specification

Annex C : Tender and Evaluation Methodology and Tender Criteria

Annex D : Bravo System, Clarification Questions and Tender submission guidance

Annex E : Summary List of Questions and Criteria

Annex F : Draft Contract

These are located in the Attachments folder in the Bravo ITT.

1.3 Financial Information

Maximum Financial Envelope – NHS Medway CCG referrals only.

£ 300,000 over five years.

Total Estimated Contract Value: £45,000 per year. This is based on a cost per case assessment of 5 cases per month for NHS Medway CCG only. The values may be higher or lower than the advertised averaging value.

Future costs will be capped subject to a performance / inflationary agreed annual budget figure at the outset of the contract.

n.b. Cost per case with an outline of expected capped activity subject to review. The activity could be 0 (zero) or up to the cap in any one year. Activity and value are not guaranteed.

Financial Proposals over these values will be deemed non-compliant and not evaluated. See Annex C and supporting documentation for further detail.

1.4 Next Steps for Bidders

Bidders wishing to participate in the Procurement must register on the Bravo portal (see Annex D).

Registration will be assumed to constitute an Expression of Interest (EOI).

The bid response must arrive before:

12 noon 12 October 2018

Failure to return a completed bid by the deadline above will normally result in the disqualification of the Bidder from participating in this procurement.

2 Introduction and Overview

2.1 Aims, Objectives and Scope of the Service

Bidders should refer to Annex B - Service Specification and additional information for full details. This service specification outlines the diagnostic service required in order to undertake assessment for Autistic Spectrum Conditions (ASC) for adults with or without a learning disability.

National Policy Context :

There has been increasing concern over the lack of clear diagnostic pathways and support for adults with high functioning autism and aspergers syndrome. The Autism Act 2009 was the first disability specific act of parliament in the UK. It has led to the National Autism Strategy and three NICE guidelines (CG128, CG142 and CG170) along with NICE quality standards QS51.

Legislation (Autism Act, 2009) places a legal duty on health and social care agencies to provide services for people with Autistic Spectrum Conditions (ASC). Further national policy drivers have reinforced the need for action in this area:

- Fulfilling and rewarding lives the strategy for adults in England (2010)
- Implementing fulfilling and rewarding lives: Statutory guidance for local authorities and NHS organisations to support implementation of the autism strategy (2010)
- Think Autism: fulfilling and rewarding lives, the strategy for adults with autism in England: an update (2014)
- Adult Autism Strategy: statutory guidance (2015)
- The Government response to No voice unheard, no right ignored, a consultation for people with Learning disabilities, autism and mental health conditions (2015)
- Think Autism Governance refresh March 2018

The cost of cumulative service use nationally for autism equates to £28billion p.a., with a lifetime cost of approximately £3.1 million for each affected individual.

With the aforementioned policy drivers and increasing cost constraints within the NHS, development of a diagnostic and care pathway is critical to meeting the needs of individuals with ASC.

2.2 CCG Policy context

It is the intention of the CCG to agree a signature and start date of the contract as early as possible after official award to enable mobilisation, and no later than 21 December 2018. It is anticipated that Service Commencement Date will be 1st April 2019.

See Service Specification (Annex B) for full details of the service requirements.

2.3 Objectives of this Procurement

The key objectives of this Procurement are :

- to select the most suitable provider(s) to deliver a Service that is accessible, high quality, efficient, and responsive in accordance with the Commissioners' service specification
- to enable the Service to be delivered in accordance with the Commissioner timescales
- to ensure value for money

2.4 Scope and Structure of the Procurement

Procurement scope

The Procurement covers the provision of an ASC DAS Service. The Service is outlined in Section 2.1 and fully described in the Specification included in the tender documents at Annex B. The Commissioner reserves the right to refine the specification in the course of the procurement and re-publish as appropriate.

All interested parties should note that this Service Procurement falls within the scope of the "Light Touch Regime" as defined in the Public Contracts Regulations 2015 (as amended) and Directive 2014/24/EU. Therefore the 2015 Regulations and the 2014 Directive are only applicable to the Service Procurement to the extent required for the Services. The Commissioners have decided to follow a tendering procedure for the Service Procurement which is akin to the Open procedure, as provided for under the 2015 regulations and the 2014 Directive, and throughout this ITT and associated documentation, the terminology linked to an Open Procedure is used. This should not however be taken as an acceptance by The Commissioners that any part of the 2015 Regulations or the 2014 Directive (other than those provisions specifically applicable to the Light Touch Regime Procurement) apply to this Service Procurement.

The Commissioner will also observe the requirements of the Procurement Patient Choice and Competition Regulations 2013 (PPCCR 2013).

Any proposal submitted will be deemed to be submitted in acceptance of this Section 2.4.

Procurement lot structure

The Service will be tendered as a single Lot. The Commissioner intends to contract with a single entity as a Provider to deliver the complete Service. The Provider may be a single organisation, or multiple organisations structured under a prime contractor and sub-contractor arrangement, or as a consortium. Bidders will be required to be clear about the proposed structure their bidding entity and the legal entity taking responsibility for the contract with the Commissioner.

2.5 Bidder Pool

The Commissioner wishes to receive bids from suitably qualified and experienced providers (including NHS organisations, social enterprises, third sector organisations and other providers) with the necessary capacity and capability (or a demonstrable ability to provide the necessary capacity and capability) to provide the complete Service in a safe and effective manner and to meet the critical success factors (CSFs) described below.

Bidders may bid in partnership with other organisations such that the Service Supplier may be different to the Bidder.

Qualification Questions (Pass / Fail)

Bidders should note that there is a separate Qualification Section for completion, in which bidders are expected to demonstrate their compliance with the commercial, economic, financial and specific technical abilities to ensure full evaluation only takes place of those bidders who are in the sole view of the Commissioner, fit for purpose. The Commissioner will not evaluate further any bidder judged to have failed any of these Qualification Questions.

Bidders who achieve a Pass against all these questions will proceed to the technical and financial evaluation stages of their proposals.

The CCG reserves the right to appoint a Provider without a further call for competition if no tenders are received through this process.

3 Procurement process overview

The Procurement approach, timescale and operational processes are summarised below.

3.1 Procurement timeline

The indicative timeline for the Procurement is set out in Annex A.

It should be noted that the dates are expected dates at the time of issuing this MOI and may be subject to change at the sole discretion of the Commissioner.

3.2 Procurement approach

To ensure operation in a fair and controlled manner, the Commissioner is conducting this procurement using a web-based system – sometimes referred to as an eSourcing portal. The Commissioner will use this system to make available to providers all documents used during the procurements, and for all communications with participants in the procurements. Providers will also use this system to make their submissions to the Commissioners.

NHS Commercial Solutions is utilising a web based electronic tendering tool to manage this Procurement and to communicate with Bidders. Accordingly, there will be no hard copy documents issued to Bidders and all communications with NHS Commercial Solutions, including the submission of Bids will be conducted via the Bravo secure messaging service within the portal hosted by BravoSolution, the managed service provider for the NHS Commercial Solutions eTendering system.

It is free to register on the portal, and it can be accessed at any time of day. Should Bidders have any queries, or if Bidders are having problems registering on the portal, they should contact the BravoSolution dedicated Supplier

Support with registration is available from the Bravo Help desk :

Phone: 0800 368 4850 (Monday to Friday (9am to 6pm))

E-mail: help@bravosolution.co.uk

3.3 Advert, MOI and EOI

Advert

A Contract Notice has been published in the Official Journal of the European Union (OJEU), and an Opportunity Notice has been published on Contracts Finder (CF). These describe the service being procured by the Commissioner, with the aim of encouraging responses from a range of organisations.

Memorandum of Information

This MOI is published on Contracts Finder and on the BravoSolution eSourcing portal.

This MOI provide Bidders with sufficient information on the Procurement and the Service to enable them to make an informed decision about whether they wish to register their interest in the Procurement and submit a Bid.

Expression of Interest

Bidders can only express their interest by registering via the Bravo system on the Project and ITT, following the guidance in Annex D

This can be done at any time via this web link:

<https://commercialsolutions.bravosolution.co.uk>

The Bravo Project number is project_2928. The Invitation to Tender number is ITT_2950.

Tender documents

The tender documents provide detailed information on the procurement process, guidance on how to complete the bids and a series of questions for Bidders to answer.

The tender documents will be made available only through the eSourcing portal to all Bidders. Bidders must submit their bid before the deadline stated in the tender documents. The Commissioner reserves the right not to consider any bid received after that deadline.

A clarification process will operate during the tender stage to resolve questions from bidders – this process is explained in the Bidder Clarification Question documentation held in the Attachments folder in the Bravo project.

The tender documents are designed to evaluate the eligibility, capability, and capacity of Bidders to provide the Service, and to assess the solution proposed by Bidders.

3.4 Procurement Process Overview

For full details please refer to the Annexes.

All material issued in connection with this ITT shall remain the property of the Commissioner.

The Bidder shall ensure that each and every employee, officer, servant or agent, sub-contractor, consortium member and adviser of the Bidder (referred to as “Bidder Parties”) abides by the terms of these instructions.

Neither the Bidder, nor any of its Bidder Parties, or advisers shall make contact with any employee, agent or consultant of the Commissioner who are in any way connected with this Procurement during the period of the Procurement, unless instructed otherwise by the Commissioner.

The Commissioner shall not be committed to any course of action as a result of :

- Issuing this ITT or any invitation to participate in this Procurement;
- An invitation to submit any Bid Response in respect of this Procurement;
- Communicating with a Bidder or any of their Bidder Parties in respect of this Procurement.

Bidders accept and acknowledge that by issuing this ITT, the Commissioner shall not be bound to accept any Bid and reserves the right not to conclude a Contract for some or all of the Service(s) for which Bids are invited with one or more Bidders.

The Commissioner reserves the right to amend, add to or withdraw all or any part of this ITT at any time during the Procurement.

All documentation and communication shall be in English.

3.5 Procurement Procedure

The Commissioner wishes to establish the Most Economically Advantageous Tender ("MEAT") for the Contract. The Commissioner are managing this Procurement in accordance with the Public Contracts Regulations 2015 (the "Regulations") and the Service(s).

All interested parties should note that this Service Procurement falls within the scope of the "Light Touch Regime" as defined in the Public Contracts Regulations 2015 (as amended) and Directive 2014/24/EU. Therefore the 2015 Regulations and the 2014 Directive are only applicable to the Service Procurement to the extent required for the Services. The Commissioners have decided to follow a tendering procedure for the Service Procurement which is akin to the Open procedure, as provided for under the 2015 regulations and the 2014 Directive, and throughout this ITT and associated documentation, the terminology linked to an Open Procedure is used. This should not however be taken as an acceptance by The Commissioners that any part of the 2015 Regulations or the 2014 Directive (other than those provisions specifically applicable to the Light Touch Regime Procurement) apply to this Service Procurement. This ITT supersedes all previously published documentation. In evaluating Responses to this ITT from Bidders, the Commissioner will only consider information provided in response to the contents of this ITT.

3.6 Procurement Timetable

Annex A provides a summary of the process steps for the Procurement of the Service(s) and an indicative timetable. Bidders should note that whilst the Commissioner does not intend to depart from the timetable provided, they reserve the right to do so at any time in order to support competition, avoid unnecessary costs associated with a Bid, and/or adhere to any technical, legal or commercial guidance issued subsequent to the ITT and/or for any other substantial technical or administrative reason as appears to them to be necessary (at their total discretion).

Bidder Communication

Unless stated otherwise in these instructions or in writing from the Commissioner, all communications from Bidders (including their Bidder Parties) during the period of the Procurement must be directed to NHS Commercial Solutions, and only via the Bravo secure messaging service.

Strictly no other forms of communication to NHS Commercial Solutions will be accepted (including telephone calls, postal queries/submissions, faxes or email communications).

Bidder requests for clarification must be submitted in accordance with the procedure set out in Annex D, and on the documentation provided in the Attachments Section.

Intention to Submit a Bid

To assist the Commissioner with their Evaluation planning, organisations that have registered and are therefore deemed to have Expressed Interest on Bravo will be requested to confirm their Intention to Bid via the messaging area found within the ITT before the 9th of October 2018. This commitment will be non-binding.

In the event that an organisation does not wish to participate further in this Procurement exercise, the organisation must indicate this by utilising the “decline to respond” function within the Bravo portal.

3.7 Bid preparation & Due Diligence

Bidders must obtain for themselves, at their own responsibility and expense, all information necessary for the preparation of Bids. Bidders are solely responsible for all costs and expenses incurred in connection with the preparation and submission of their Bid and all other stages of the selection and award process. Under no circumstances will the Commissioner, NHS Commercial Solutions or any of their advisers or representatives, be liable for any costs or expenses borne by Bidders and/or any of their Bidder Parties in this process.

Bidders are required to complete and provide all information required by the Commissioner in accordance with the requirements of the ITT. Failure to comply with the terms of the ITT may lead to the Commissioner rejecting a Bid Response.

Bidders are solely responsible for obtaining the information which they consider necessary in order to make decisions regarding the content of their Bids and to undertake any investigations they consider necessary in order to verify any information provided to them during the Procurement (“Due Diligence”).

Bidders must form their own opinions, making such investigations and taking such advice (including professional advice) as is appropriate, regarding the Service(s) and their Bid Response, without reliance upon any opinion or other information provided by the Commissioner, NHS Commercial Solutions or any of their advisers and representatives. Bidders should notify the Commissioner promptly via the Bravo messaging service of any perceived ambiguity, inconsistency or omission in this ITT, any of its associated documents and/or any other information issued to them during the Procurement.

3.8 Bid Submission Requirements

The Commissioner may at their own absolute discretion extend the closing date and time for the receipt of Bids specified in paragraph 1.3.

Any extension granted will apply to all Bidders.

Bidders must submit their final Bids via the Bravo portal no later than :

12:00 midday 12 October 2018 (“the Deadline”).

Bids may be submitted at any time before the closing date and amended as many times as necessary before the Deadline. Bids received before the Deadline will be retained unopened until after the Deadline for receipt of Bids.

The Commissioner will not consider any Bid Response received after the Deadline stated and failure to submit a response by the Deadline will result in the disqualification of the Bidder from participating in this Procurement.

For assistance in the preparation and submission of bids via the Bravo system, please refer to Annex D

Price and financial data provided must be in, or converted to, pounds sterling. Where official documents include financial data in a foreign currency, a sterling equivalent must be provided.

The Bid and any documents accompanying it must be in the English Language and in a format as specified in Table 3.9 below. The Commissioner reserve the right not to consider Bids if not submitted in the format specified.

3.9 Document formats

All documents must be submitted in the following formats. Submission in any other format will mean the documentation is unreadable in the e-evaluation system and will not be evaluated.

File type	Software package
Text based documents	Readable by Adobe Acrobat (pdf) or Microsoft Word
Spreadsheet based documents	Readable by Microsoft Excel
Graphics files	Readable by Adobe Acrobat (pdf) and / or as a JPEG
Financial reports and accounts	Readable by Adobe Acrobat (pdf)

Zipped files	.zip format ONLY (not .rar or any alternative method)
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Neither the Commissioner, nor NHS Commercial Solutions, nor their advisers accept any responsibility for the premature opening or mishandling of Bids that are not submitted in accordance with these instructions. Bidders should not include in their Bid any extraneous information which has not been specifically requested in the ITT including, for example, any sales literature, standard terms of trading, etc.

3.10 General

By returning the Bid, the Bidder and each relevant Bidder Party warrants that, save as disclosed to the Commissioner 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 relevant entity'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 in the course of 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 in 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 information contained in this document or supplied by NHS Commercial Solutions on behalf of the Commissioner to any third party at any time except for the purpose of enabling a response to the ITT to be prepared;

Where in the opinion of the Commissioner a Bid Response is non-compliant, the Bidder may be disqualified. In this event, further evaluation of the Bid will not be undertaken and the Bidder will not proceed to the next stages of the Evaluation.

3.11 Contract Award

Based on the outcome of the evaluation, recommendations will be made to the Commissioner respective Governing Bodies for them to consider. Following approval by the Governing Bodies, the Commissioner and the recommended Bidder may enter into the contract, subject to agreeing final terms.

3.12 Service Commencement

Following contract award and in accordance with the Provider's mobilisation plan, the Commissioner and the Provider will work together towards service commencement at the contractually agreed date.

The required date for service commencement is 1 April 2019.

4 Commercial Framework

Bidders' attention is drawn to the following commercial information.

4.1 Contract

To note :

It is anticipated that following completion of the standstill procedure on 13 December 2018, the Contract Signature date will be no later than 21 December 2018.

The Service Commencement Date will be 1st April 2018.

The contract will be subject to due diligence and agreement of final terms.

The Contracts will be the NHS Standard Contract 2018/19, (or that in force at the time of contract signature) amended as necessary to reflect the requirements of the Service. The template is available here :

<https://www.england.nhs.uk/nhs-standard-contract/2017-19-update-may/>

The Contract will be separate to and independent of any existing contract currently in place between the Commissioner and the Provider.

The contracts will be based on the single proposal received from the successful provider.

4.2 Contract Duration

The Contract will be for an initial term of three years, with an option to extend by up to two x two years, subject to agreement by the Commissioner and the Provider.

Contract Value

The maximum total value for the five year initial term of the service for NHS Medway CCG referrals is not to exceed £300,000. The maximum cost p.a. is not to exceed £ 45,000. Bids above these values will be deemed non-compliant.

Bidders should be clear that there is no minimum value attached to the contract

The total cost offered by Bidders for 3 years, will be reviewed. The Bidder Cost for the purposes of awarding the initial marks for the low bid will be the value stated in the Bidder Costs worksheet Cell G102 See Annex C.

4.3 Subcontracting

The Provider will only be permitted to subcontract provision of the Services to other parties if the subcontract arrangements are fully detailed as a part of the Provider's Bid and expressly agreed by the Commissioner under the contract. The Provider will not otherwise be permitted to subcontract provision of patient care to other parties.

4.4 *Payment Mechanism*

The contract price must cover all aspects of the Service, including service delivery, administration, support and infrastructure. The Commissioner will not make any other payment to Providers in respect of the Service.

Payments will be subject to achievement of a range of Key Performance Indicators (KPIs). Failure to satisfy the KPIs may result in proportionate financial adjustments.

4.5 *Quality and Performance Monitoring*

The Provider will be required to provide a range of regular reports on service quality and performance. Monitoring of quality and performance will be ongoing, and based on a range of Key Performance Indicators.

Further information about the quality and performance monitoring framework and the reporting requirements will be detailed in the Service Specification (Annex B) .

4.6 *Workforce*

4.6.1 *Policies and Strategies*

Bidders may be required to provide evidence that all proposed workforce policies, strategies, processes and practices comply with all relevant employment legislation and guidance applicable in the UK.

The Provider will be responsible for the provision, recruitment and training of all staff providing the Service.

The Provider must have robust procedures in place to demonstrate effective recruitment practice and adherence to 'Safer Recruitment – A Guide for NHS Employers' and the Code of Practice for the International Recruitment of Health Care Professionals (December 2004). Processes should include pre-employment (e.g. enhanced DBS) checks and competency assessments for UK and overseas staff.

The Provider must have clear management arrangements in place to ensure the workforce is of sufficient size to have the capability to meet the range of services effectively and efficiently. This must include be clearly defined structures of accountability and responsibly safe service delivery.

At ITT stage Bidders will be required to provide evidence that all proposed workforce policies, strategies, processes and practices comply with all relevant employment legislation applicable in the UK and also comply with the provisions outlined in:

- Safer Recruitment – A Guide for NHS Employers (May 2005);
- The Code of Practice for the International Recruitment of Healthcare Professionals (December 2004) (the Code of Practice)

During the Procurement, Bidders may be required to provide summary information on each of the following, and full copies of policies and other documentation may be required prior to contract:

- recruitment, health and safety and other relevant policies including those on environmental protection
- procedures for ensuring compliance that all clinical staff, including consultants, doctors, nurses, technicians and allied health professionals, are registered with the relevant UK professional and regulatory bodies
- policy for ensuring clinical staff meet the CPD requirements of their professional and regulatory bodies
- staff handbook setting out terms and conditions of employment for staff

Further details of the staff resourcing and workforce policy requirements will be included in the tender documents.

4.6.2 Staff Transfers (TUPE and pensions)

It is not envisaged that this Procurement will involve any TUPE transfers.

However if this changes, it will be necessary to incorporate existing provider functions within the new service. Where this involves a material proportion of an undertaking there may be staff transfers under TUPE. Details as advised by current incumbent providers will be provided within the attachments section of Bravo system.

Where TUPE applies, the Cabinet Office statement on Principles of Good Employment Practice may apply. Staff transferring under TUPE should receive access to a pension scheme that is certified as “broadly comparable” with the NHS Pension Scheme by the Government Actuary’s Department (GAD).

TUPE information as provided by current providers is contained in the TUPE folder contained in the Attachments Section of Bravo. At the time of tender publication only the Kent & Medway NHS and Social Care NHS Partnership Trust have confirmed to the Commissioner that they have staff that may be subject to TUPE.

4.7 IMT

The Services must be supported by Information Management and Technology (IMT) Systems to process and store patient information in a safe and secure way in accordance with the standards outlined below.

IMT Systems means all IMT infrastructure, computer hardware, software, networking, training, support and maintenance necessary to support and ensure effective delivery of the Services, management of patient care and contract management.

The Commissioner will not provide (nor arrange the provision of) IMT services required to deliver the Services.

The Provider must supply, manage and maintain any IMT systems or services that the Provider deems necessary to deliver the Service. The Provider must gain agreement and approval from the Commissioner for all IMT systems and services prior to their use to deliver the Service.

The Provider's IMT Systems used for the Services must comply with the following standards as appropriate:

- Information and Data standards and formats as detailed by HSCIC to enable data inter-operability
- Information Governance standards required by IG Toolkit to at least level 2

The costs of IMT Systems must be included in bid pricing.

Further details on IMT requirements for the Service are set out in the Technical Questions.

4.8 Financial Standing and Funding

Financial standing requirements for the Procurement will be subject to confirmation of identity, solvency, liquidity, profitability and proposed business structure.

During the bid stage Bidders may be required to put forward proposals as to how the Service funding requirement would be met.

4.9 Performance Security

The Commissioner does not expect that performance security will be required from the Provider in relation to the Service.

4.10 Insurance

Qualification Question 1 sets out a comprehensive schedule of insurances that the Provider will be required to obtain in relation to Services will be set out in the tender documents. This will typically include public liability, corporate medical malpractice and certain property cover.

The insurance requirements will also require the Provider to ensure that:

- the Commissioner interests are fully protected
- members of the public utilising the services are fully protected to the extent that they have a valid claim against the Provider or the Commissioner.
- the Provider maintains insurance which meets at least the minimum statutory requirements

The Provider will be required to indemnify the Commissioner against any claims that may be made against the Commissioner arising from the provision of the services by the Provider. The Commissioner will expect the Provider to offer evidence that they have sourced appropriate (and sufficient) insurance or other arrangements. For the avoidance of doubt, this will include provisions for clinical negligence insurance covering all staff and operational risk in the facilities from which the Provider's services are to be provided.

5 Governance and Administration

5.1 Procurement Costs

Each Bidder and Relevant Organisation will be responsible for its own costs incurred throughout each stage of the Procurement. The Commissioner will not be responsible for any costs incurred by any Bidder or Relevant Organisation or any other person for this process.

5.2 Consultation

The Commissioner will lead on all local stakeholder engagement issues. All Commissioner schemes are subject to on-going patient and public consultation under The Public Services (Social Value) Act 2012.

5.3 Regulations

All interested parties should note that this Service Procurement falls within the scope of the “Light Touch Regime” as defined in the Public Contracts Regulations 2015 (as amended) and Directive 2014/24/EU. Therefore the 2015 Regulations and the 2014 Directive are only applicable to the Service Procurement to the extent required for the Services. The Commissioners have decided to follow a tendering procedure for the Service Procurement which is akin to the Open procedure, as provided for under the 2015 regulations and the 2014 Directive, and throughout this ITT and associated documentation, the terminology linked to an Open Procedure is used. This should not however be taken as an acceptance by The Commissioners that any part of the 2015 Regulations or the 2014 Directive (other than those provisions specifically applicable to the Light Touch Regime Procurement) apply to this Service Procurement.

The Commissioner will also observe the requirements of the Procurement Patient Choice and Competition Regulations 2013 (PPCCR 2013).

Conflicts of Interest (*see Selection Questionnaire Section E*)

In order to ensure a fair and competitive procurement process, the Commissioner requires that all actual or potential conflicts of interest that a Bidder may have are identified and resolved to the satisfaction of the Commissioner.

Bidders must notify the Commissioner of any actual or potential conflicts of interest in their bid. If the Bidder becomes aware of an actual or potential conflict of interest following submission of the bid it must immediately notify the Commissioner via the eSourcing portal. Such notifications should provide details of the actual or potential conflict of interest.

If, following consultation with the Bidder, such actual or potential conflict(s) are not resolved to the satisfaction of the Commissioner, then the Commissioner reserves the right to exclude at any time any Bidder from the procurement process should any actual or potential conflict(s) of interest be found by the Commissioner to confer

an unfair competitive advantage on one or more Bidder(s), or otherwise to undermine a fair and competitive procurement process.

5.4 *Non-collusion and Canvassing*

Bidders must neither disclose to, nor discuss with any other Bidder (whether directly or indirectly), any aspect of any response to any of the Procurement documents.

Bidders must not canvass or solicit or offer any gift or consideration whatsoever as an inducement or reward to any officer or employee of, or person acting as an adviser to, either the NHS or the DH in connection with the selection of Bidders in relation to the Procurement.

Bidders must not except as expressly authorised by the Commissioner contact any officer or employee or agent of the Commissioner about any aspect of the Procurement including (without limitation) for the purposes of discussing the possible transfer to the employment of the Bidder or a Relevant Organisation of such employee or officer for the purpose of the procurement or for soliciting information in connection with the Procurement

5.5 *Freedom of Information*

The Commissioner is committed to open government and meeting its legal responsibilities under the Freedom of Information Act (FOIA). Accordingly, any information created by or submitted to the Commissioner (including, but not limited to, the information contained in the tender documents and the submissions, bids and clarification answers received from Bidders) may need to be disclosed by the Commissioner in response to a request for information.

In making a submission or bid or corresponding with the Commissioner at any stage of the Procurement, each Bidder, and each Relevant Organisation acknowledges and accepts that the Commissioner may be obliged under the FOIA to disclose any information provided to it:

- without consulting the Bidder
- following consultation with the Bidder and having taken its views into account

Bidders must clearly identify any information supplied in their bid that they consider to be confidential or commercially sensitive and attach a brief statement of the reasons why such information should be so treated and for what period.

Where it is considered that disclosing information in response to a FOIA request could cause a risk to the procurement process or prejudice the commercial interests of any Bidder, the Commissioner may wish to withhold such information under the relevant FOIA exemption.

However, Bidders should be aware that the Commissioner is responsible for determining at its absolute discretion whether the information requested falls within an exemption to disclosure, or whether it must be disclosed.

Bidders should therefore note that the receipt by the Commissioner of any information marked “confidential” or equivalent does not mean that the Commissioner accepts any duty of confidence by virtue of that marking, and that the Commissioner has the final decision regarding the disclosure of any such information in response to a request for information.

5.6 Compliance with other legal disclosure requirements

Bidders should also note that in the unlikely event of any formal legal challenge resulting from the outcome of the tender, which may contain formal requirements for document disclosure,, the Commissioner will consult with any affected bidder, but are likely to comply with any formal legal rulings in relation to disclosure of tender documentation.

5.7 Disclaimer

The information contained in this MOI is presented in good faith and does not purport to be comprehensive or to have been independently verified.

Neither the Commissioner 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, Services Supplier, financiers or any of their advisers, orally or in writing or in whatever media.

Interested parties and their advisers must therefore take their own steps to verify the accuracy of any information that they consider relevant. They must not, and are not entitled to, rely on any statement or representation made by the Commissioner or any of their advisers.

This MOI is intended only as a preliminary background explanation of the Commissioner activities and plans and is not intended to form the basis of any decision on the terms upon which the Commissioner will enter into any contractual relationship.

The Commissioner reserves the right to change the basis of, or the procedures (including the timetable) relating to, the Procurement, to reject any, or all, of the submissions and bids, not to invite a Bidder to proceed further, not to furnish a Bidder with additional information nor otherwise to negotiate with a Bidder in respect of the Procurement.

The Commissioner shall not be obliged to appoint any of the Bidders and reserves the right not to proceed with the Procurement, or any part thereof, at any time.

Nothing in this MOI is, nor shall be relied upon as, a promise or representation as to any decision by the Commissioner in relation to this Procurement. No person has been authorised by the Commissioner or its advisers or consultants to give any information or make any representation not contained in this MOI and, if given or made, any such information or representation shall not be relied upon as having been so authorised.

Nothing in this MOI 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 or 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 MOI or other pre-contract documentation.

In this section, references to this MOI include all information contained in it and any other information (whether written, oral or in machine-readable form) or opinions made available by or on behalf of the Commissioner or any of their advisers or consultants in connection with this MOI or any other pre-contract documentation.

5.8 *Copyright*

This MOI document, including all attachments, appendices, and any subsequent correspondence or communication in writing relating to the MOI, represent the original proprietary material of the Commissioner and are subject to Copyright, and may not be reproduced, altered, or revised in any manner or form unless prior, express, written permission has been obtained from the Commissioners.