

ICB Primary Care Commissioning Committee Part 1

Date of meeting	18 January 2024
Title of paper	Withnell Request for Information Outcome
Presented by	Peter Tinson, Director Primary Care (Donna Roberts, Associate Director Primary Care)
Author	Greg Reide, Procurement Assurance Manager, Integrated Health Solutions, NHS Shared Business Services (NHS SBS)
Agenda item	5a
Confidential	No

Executive summary		
<p>The existing contract for providing services at the Withnell Health Centre is due to expire on 30 September 2024.</p> <p>The ICB in preparation to award a new contract for those services needs to decide on the most appropriate procurement route to secure those services.</p> <p>To support this decision-making process, in August 2023 the Primary Care Commissioning Committee approved a recommendation to carry out market engagement in the form of publication of a Request for Information (RFI).</p> <p>There was interest in this opportunity from multiple providers.</p>		
Advise, Assure or Alert		
<p>Assure the committee:</p> <ul style="list-style-type: none"> - That a Request for Information exercise has been completed. <p>Advise the committee:</p> <ul style="list-style-type: none"> - That two providers completed the Request for Information Questionnaire in response to the advert. 		
Recommendations		
<p>It is recommended that, based on consideration of procurement routes and associated published guidance, the committee approve a competitive procedure under the Provider Selection Regime (PSR) in accordance with the timeline previously agreed.</p>		
Which Strategic Objective/s does the report contribute to		Tick
1	Improve quality, including safety, clinical outcomes, and patient experience	X
2	To equalise opportunities and clinical outcomes across the area	X
3	Make working in Lancashire and South Cumbria an attractive and desirable option for existing and potential employees	X
4	Meet financial targets and deliver improved productivity	

5	Meet national and locally determined performance standards and targets			
6	To develop and implement ambitious, deliverable strategies			
Implications				
		Yes	No	N/A
	Comments			
Associated risks				x
Are associated risks detailed on the ICB Risk Register?				x
Financial Implications				x
Where paper has been discussed (list other committees/forums that have discussed this paper)				
Meeting	Date	Outcomes		
Conflicts of interest associated with this report				
None identified.				
Impact assessments				
		Yes	No	N/A
	Comments			
Quality impact assessment completed				x
Equality impact assessment completed				x
Data privacy impact assessment completed				x
Report authorised by:	Craig Harris, Chief Operating Officer			

ICB Primary Care Commissioning Committee

18 January 2024

Withnell Request for Information Outcome

1 Purpose

- 1.1 This report details the market engagement process that has been followed and provides a recommendation on the next steps in relation to the procurement.
- 1.2 The market engagement and pre-procurement activities have been managed by NHS Shared Business Services (NHS SBS) on behalf of NHS Lancashire and South Cumbria Integrated Care Board (the ICB) using the SAP Ariba electronic procurement system to administrate all communications with providers.

2 Background

- 2.1 The existing contract for providing services at the Withnell Health Centre is due to expire on 30 September 2024.
- 2.2 The ICB in preparation to award a new contract for those services needs to decide on the most appropriate procurement route to secure those services.
- 2.3 To support this decision-making process, in August 2023 the Primary Care Commissioning Committee (PCCC) approved a recommendation to carry out market engagement in the form of publication of a Request for Information (RFI).

3 The market engagement process

- 3.1 The aim and purpose of the market engagement was to make potential providers aware of an upcoming procurement and to give them the opportunity to express an interest in the opportunity and provide any feedback they may have on the opportunity. This in turn will allow the ICB to understand the level of interest in the opportunity and thus the optimal procurement route.
- 3.2 The market engagement commenced with the publication of a Prior Information Notice (PIN) which advertised the future opportunity on 20 November 2023 on the Find a Tender and Contracts Finder portals, inviting interested providers to view the market engagement material which was published on the SAP Ariba portal.

4 Market engagement material

- 4.1 The following market engagement material was published:

- Request for Information Instructions and Questionnaire
- The Service Specification
- The draft APMS agreement

4.2 Potential providers were given a deadline of 11 December 2023 to complete and submit a Request for Information Questionnaire (RFIQ).

5 Summary of market engagement responses

5.1 The total number of organisations who viewed the published material was five of which two completed and submitted a RFIQ. The advert published on Contracts Finder had 476 views at the time of writing but only five of those reviewed the published material.

5.2 The RFIQ submitted by both organisations confirmed a high level of interest in bidding for the opportunity.

5.3 Both organisations showed understanding of and a willingness to provide Modern General Practice.

5.4 Neither provider indicated that there were any unsurmountable barriers to them being able to provide the service.

6 Procurement options

6.1 Since the commencement of the market engagement process, the legislation governing the award of contracts for healthcare services has changed, with the coming into force of the Provider Selection Regime (PSR) via The Health Care Services (Provider Selection Regime) Regulations 2023.

6.2 The PSR governs the award of contracts for specific healthcare services on or after 1 January 2024.

6.3 The PSR contains some transitional provisions for procurements that commenced prior to 1 January 2024, which disapply the Provider Selection Regime.

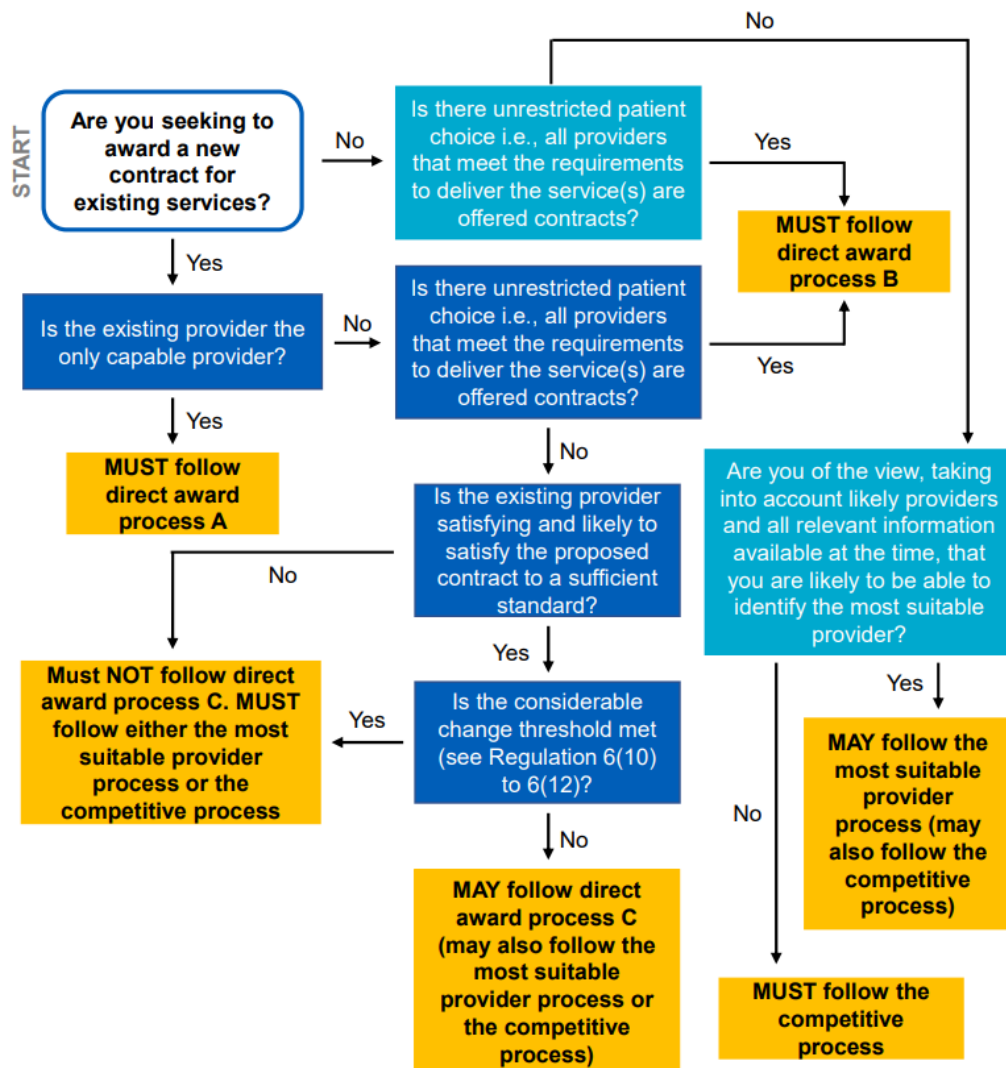
6.4 For procurements that commenced prior to 1 January 2024 the Public Contracts Regulations 2015 and the NHS Procurement, Patient Choice and Competition Regulations 2013 apply.

6.5 For a procurement to have commenced, the ICB would need to have published a Contract Notice in the Find a Tender Service and / or contacted any provider to seek an expression of interest in relation to the services.

- 6.6 The ICB published a RFI but did not publish a Contract Notice, which is a formal notification of a contract opportunity.
- 6.7 The ICB did not directly contact any provider to seek expressions of interest or offers in respect of a proposed contract.

7 Procurement under the provider selection regime

- 7.1 PSR transitional provisions are clear that as the ICB did not publish a Contract Notice or contact any provider to seek an expression of interest in relation to the services, the PSR will apply to the procurement.
- 7.2 The PSR provides for five procurement routes for awarding a contract for these services. The flow chart below and supporting end to end process maps are used to decide which one is the most suitable.



7.3 Each of the five routes are considered below, commencing with the direct award routes, based on a review of the published guidance, including supplementary information for commissioners and providers of primary care services. In certain circumstances multiple routes may be suitable:

Route	Consideration in relation to this procurement
<p>Direct Award Process A</p> <p><i>Where there is an existing provider for the services and that provider is the only capable provider.</i></p> <p><i>Appendix 1</i></p>	<p>There are realistic alternative providers due to the nature of the services being provided.</p>
<p>Direct Award Process B</p> <p><i>Where people have a choice of providers, and the number of providers is not restricted by the relevant authority.</i></p> <p><i>Appendix 2</i></p>	<p>The nature of the services being provided and national contracting approach for the services is not compatible with this process.</p>
<p>Direct Award Process C</p> <p>Where there is an existing provider for the services and that existing provider is satisfying the original contract, will likely satisfy the proposed new contract and the services are not changing considerably from the existing contract.</p> <p><i>Appendix 3</i></p>	<p>For this route to be possible, the PSR criteria for 'considerable change' have to be considered, as set out in national guidance. The proposed contract value in this procurement breaches the threshold for considerable change, therefore the ICB is unable to select this process.</p> <ul style="list-style-type: none"> • The lifetime value of the proposed new contract is at least £500,000 higher (i.e., equal to or exceeding £500,000) than the lifetime value of the existing contract when it was entered into, and • The lifetime value of the proposed new contract is at least 25% higher (i.e., equal to or exceeding 25%) than the original lifetime value of the existing contract when it was entered into.

7.4 Direct Award processes A and B are not suitable due to the nature of the services being commissioned and additionally for process B the compatibility with the national contracting approach for the services. Direct award process C cannot be used as it breaches the threshold for considerable change based on the comparison of the existing contract value to the proposed contract value.

7.5 The remaining routes are considered below:

Route	Consideration in relation to this procurement
<p>Most Suitable Provider</p> <p>Where the relevant authority is able to identify the most suitable provider without running a competitive process.</p> <p><i>Appendix 4</i></p>	<p>NHSE guidance advises ICB to follow this approach only if they are confident they can, acting reasonably, identify <u>all</u> likely providers capable of providing the services.</p> <p>This involves pre-market engagement, agreeing selection criteria, contacting all likely providers to understand their interest, publishing a notice setting out the intention to follow this process, responding to requests from any other providers to be considered, assessing all providers being considered against the criteria (including seeking any additional information required to do so) and then choosing the most suitable provider. The relevant notices must then be published (identical to other processes here).</p>
<p>Competitive Procedure</p> <p>Where the relevant authority wishes to run a competitive exercise, or if they wish to establish a framework agreement.</p> <p><i>Appendix 5</i></p>	<p>The ICB can use the competitive procedure for any contract award under PSR where:</p> <ul style="list-style-type: none"> • It is not required to follow Direct Award Process A or B; • It cannot or has decided not to follow Direct Award Process C; • It cannot or has decided not to follow the most suitable provider process.

7.6 Either the Most Suitable Provider and Competitive Procedure routes can be used.

8 Recommendations

- 8.1 The above concludes that two routes can be used, specifically the Most Suitable Provider or Competitive Procedure.
- 8.2 It is acknowledged that the Most Suitable Provider route involves the significantly wider identification (and where relevant assessment) of all suitable providers. In many other aspects it is similar to the competitive procedure (it requires an assessment of providers against criteria and based on information received).
- 8.3 In recognition of the recent market engagement exercise, it is considered that the competitive procedure provides a more proportionate, timely and similarly robust process to choose a provider.
- 8.4 It is therefore recommended that a competitive procedure is immediately progressed in accordance with the timeline previously agreed by the committee.
- 8.5 This process would be based on the new ICB Procurement Evaluation Strategy (PES) agreed by the Committee at its October 2023 meeting and significantly informed by patient feedback. This would include patient involvement in evaluation.

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Appendices

[NHS England » Provider Selection Regime toolkit products](#)