



Call for Competition for the provision of

**Orthodontic Services:**  
**INSERT LOT TITLE**

To

NHS ENGLAND SOUTH (**INSERT REGION**)

**INVITATION TO TENDER DOCUMENT**

Procurement ref: PR002368 (**Insert Lot Ref**)

Procurement Ref: PR002368 (Insert Lot Ref)  
Date: INSERT DATE

Dear Bidder,

PR002368 (Insert Lot Ref) - **Call for Competition for the provision of Orthodontic Services: INSERT LOT TITLE**

Please find set out in this Invitation to Tender (ITT) document the specification and additional information enabling you to Tender for the provision of Orthodontic Services: INSERT LOT TITLE to NHS England South (INSERT REGION), hereafter referred to as 'the Commissioner'.

This document is itself split in to a number of different sections, they are as follows:

**Section 1**

- Part A – Key information
- Part B – General information

**Section 2**

- Part C – Contract and Service Specification
- Appendices

**Section 3**

- Part D – ITT Evaluation methodology
- Part E – ITT Evaluation questions & financial template
- Part F – Declarations

Those proposing to submit a Tender are advised to read this document and its appendices and associated documentation very carefully to ensure they are fully aware of the nature and extent of the obligations to be accepted by them if awarded a contract.

Tenders must be submitted in the prescribed format no later than the time stated within this document.

All enquiries regarding any aspect of this document or procurement process in general should be directed through the e-procurement portal.

Yours faithfully,

###Insert Signature###

INSERT PROCUREMENT LEAD NAME

INSERT JOB TITLE

NHS South, Central and West Commissioning Support Unit

## **Section 1 – Information for Bidders**

This section provides information on the tendering timetable and process, document submission instructions, and general information on items such as confidentiality, conflict of interest, pricing and Freedom of Information (FoI).

## Part A – Key Information

### 1. Procurement Process

1.1 The procurement is carried out against the Dynamic Purchasing System (DPS) Orthodontic Services to NHS England South (**INSERT REGION**).

This DPS was originally advertised on the Official Journal of the European Union (OJEU), reference number 2016/S 243-443434 on 16<sup>th</sup> December 2016.

1.2 Bidders that have received this invitation are those that have been admitted to the DPS referenced in 1.1. Such an organisation (whether a single organisation or a consortium) is referred to in this document as a “Bidder”.

1.3 The purpose of this process is to identify the solution(s) and Bidders that can best meet the Commissioner’s needs and objectives. Throughout the process, the Commissioner will assess Bidders’ solutions, approach and suitability to deliver the Service and to confirm their understanding of the Commissioner’s requirement for the Services.

1.4 This is a competitive procurement process, and Bidders will be formally evaluated to determine a winning Bidder.

1.5 The procurement is being carried out in an open, transparent and proportionate manner that affords equal treatment of all participating Bidders.

1.6 The procurement is being carried out by NHS South, Central & West Commissioning Support Unit (SCW) on behalf of the Commissioner.

### 2. Tendering Timetable

2.1 A timetable for the procurement process is given below.

2.2 Bidders should be aware that the dates may be subject to change at the Commissioner’s sole discretion.

2.3 Confirmation of any variation in timetable will be communicated to Bidders at the earliest opportunity.

No.	Stage	Dates
1	Invitation to Tender (ITT) released to Bidders	<b>INSERT DATE</b>
2	Deadline for submission of clarification questions (CQs)	<b>INSERT DATE</b>
<b>3</b>	<b>Tender submission closing date</b>	<b>INSERT DATE</b>
4	ITT Evaluation period	<b>INSERT DATE</b>
5	Formal award decision made and award decision notices issued to unsuccessful Bidders	<b>INSERT DATE</b>
6	10 day standstill period	<b>INSERT DATE</b>
7	Enter into contract with successful Bidder	<b>INSERT DATE</b>
8	Contract commencement date	1 <sup>st</sup> April 2019

### 3. Award Criteria

3.1 Contracts will be awarded on the basis of the Most Economically Advantageous Tender, as further defined in **Part D** of this ITT.

- 3.2 The evaluation process will be based on Bidders' responses to the evaluation criteria and questions set out in **Part E** and any subsequent clarifications. The scoring system is set out in **Part D**.
- 3.2 The Commissioner reserves the right to award all, none or part of the Services as set out.
- 3.3 Prior to a final award, the Commissioner may request confirmation that the preferred Bidder's organisational, legal and financial capacity and capability to perform the contract has not altered in any material way since being admitted to the Dynamic Purchasing System. Upon receipt of such information, the Commissioner shall be entitled to revisit the acceptance, selection and/or evaluation of the Bidder and exclude the Bidder if necessary, as a result of that process.

#### **4. Key Officers**

4.1 **The procurement lead for this programme is:**

**INSERT NAME – INSERT JOB TITLE**

NHS South, Central, and West Commissioning Support Unit

4.2 **The commissioning lead for this programme is:**

**INSERT NAME – INSERT JOB TITLE**

NHS England South, (Insert Region)

#### **5. Contract Form and Term**

- 5.1 The Commissioner will be contracting for the Services using the latest version of the standard Personal Dental Services (PDS) Agreement at time of contract award. A draft copy of the latest version (April 2013) is available within the e-Procurement system.

*Please note the April 2013 version is currently under review and a revised version is likely to be published within 2018.*

- 5.2 Bidders should carefully study the PDS Agreement to ensure they are familiar with the obligations on them should they be awarded a contract.
- 5.3 Negotiation on the terms of the draft PDS Agreement will not be entertained by the Commissioner, and refusal to accept the terms of the draft PDS Agreement will cause a Bidder's Tender to be rejected, given that standard, nationally-defined terms are non-negotiable.
- 5.4 [The] Contract[s] will be for an initial term of seven (7) years, with an option to extend, at the sole discretion of the Commissioner, for any period up to a further 36 months.
- 5.5 Services are planned to commence from the 1st April 2019.

#### **6. Financial Envelope – Budget**

- 6.1 The Service will operate on a fixed price tariff. The Commissioner has a budget range available from a minimum of **£54.89 to a maximum of £58.89 - per Unit of Orthodontic Activity (UOA) - based on the 17/18 prices** (the

'Price Range'). The Price Range will be subject to Dentist and Doctor Pay Review (DDRB) adjustments in the period up to April 2019 and annually thereafter.

- 6.2 Bidders are requested to submit a Tender price within the Price Range.
- 6.3 Any Bidder who submits a Tender price above or below the Price Range will be disqualified.

## **7. Communications**

- 7.1 The Commissioner will send all Bidders a copy of the ITT (this document), any addenda, and any other documents and materials relevant to the procurement via the e-Procurement system at no cost.
- 7.2 The Commissioner has designated South, Central & West Commissioning Support Unit ('SCWCSU') to be its single point of contact for this procurement.
- 7.3 All contact relating to this procurement must be undertaken through the e-Procurement system. Any direct contact made with the Commissioner or any member of the SCWCSU Project team in relation to the procurement of this service will be re-directed through the e-Procurement system.
- 7.4 Each Bidder must designate an individual (the 'Authorised Representative') to whom the Commissioner should address all materials relevant to the procurement process, and must ensure that these are registered within the e-Procurement system. If the Bidder is made up of multiple organisations, the Authorised Representative should be a contact from the lead organisation.
- 7.5 The Commissioner will not be responsible for or bound by (a) any oral communication or (b) any other information or contact, occurring outside the official communication procedures specified herein.
- 7.6 The rules of contact set forth in this ITT document apply throughout the procurement process. These rules are designed to promote a fair, unbiased procurement process. 'Contact' for the purposes of this process includes in person, telephone, electronic mail (e-mail), written or other communication.

## **8. Tender Return Instructions**

- 8.1 Tender submissions must be received no later than **12:00 on INSERT DATE**. The Commissioner will not accept submissions received after the deadline except, at its absolute discretion, where it considers it appropriate to do so in exceptional or genuinely unforeseeable circumstances.
- 8.2 Please note that Bidders are responsible for ensuring safe receipt of their Tenders. The Commissioner will not accept responsibility or liability for or arising from late or non-receipt of a Tender submission. Proof of transmission will not be accepted as proof of receipt.
- 8.3 All Tender submission documentation must be sent through the relevant part of the e-Procurement system. Tender submissions will not be accepted by any other route except in exceptional circumstances, which must be agreed in advance with the Commissioner.
- 8.4 Bidders must submit a response based on the requirements of the Commissioner as described in this ITT and the Service Specification. Tenders must be submitted using the online questionnaire in the relevant part of the e-Procurement system, and according to the parameters laid out therein.

- 8.5 All documents submitted through the e-Procurement system must be in a format that is readable in all versions of the Microsoft Office suite from the 2003 version onwards, or Adobe Acrobat. Additionally, all attached spreadsheet and text responses must be fully available for manipulation (i.e. not locked for editing or presented as a PDF document).
- 8.6 Any supporting documents such as mobilisation plans should be in Excel or Word format; Microsoft project format cannot be accepted.
- 8.7 Images within documents should be appropriately compressed to ensure document sizes do not become unmanageable.
- 8.8 All electronic files submitted should be clearly and logically named, including the Bidder's name and the question number to which that electronic file relates as follows;
- Your Organisation Name – Related ITT Question Number – Document title*
- 8.9 The Tender submission shall be submitted in the format and order as stipulated, and derogations or omissions from that format may result in the Commissioner rejecting the submission. Bidders should consider the bullet points when responding to questions. Generic and promotional material should not be included, and will be ignored.
- 8.10 Bidders may make use of supporting documents (appendices to questions etc.) only where requested.
- 8.11 Words limits will apply to question responses where indicated. Any question response exceeding the stated word limit (including any appendix that the Commissioner judges to be essentially the continuation of a question response, and therefore a circumvention of the word limit), will be rejected and ignored.
- 8.12 Unless specifically requested as part of the question response, where the Bidder wishes to append a lengthy document such as a staff handbook, they should include the relevant extract from the document, not the entire document. Any appendix in excess of 10 pages / sides of A4 paper will be rejected and ignored for the purposes of evaluation.
- 8.13 Bidders should ensure that their Tender submissions are complete when they are submitted and that all accompanying documentation is provided, as changes or additions to submissions will not be accepted after the submission due date. An exception to this is in the case of arithmetic or administrative errors that are clearly correctable and do not alter the substance of the Tender.

## **9. Bidder Clarifications**

- 9.1 Bidders should read this ITT as soon after receipt as possible. Alongside this ITT document, any other published background details (including all other relevant information provided by the Commissioner) should provide all the information required. It is the Bidder's responsibility to clarify their interpretation of any item in this ITT.
- 9.2 The objective of Bidder clarifications is to give Bidders the opportunity to submit questions to the Commissioner concerning issues of clarity concerning either the process or the substance of the proposed Services. Any queries arising from this ITT (or any procurement documents and communications) which may have a bearing on the Tender submission to be made by Bidders should be raised.

- 9.3 Where Bidders require further information on details within this or other Tender documentation, they must submit clarification questions through the e-Procurement messaging system on the template provided as an appendix to the [Service] Specification. Clarification questions received by any other means will be rejected.
- 9.4 Responses to clarification questions will be anonymised and sent out to all other Bidders during the period of the procurement. Where Bidders consider that the clarification questions and/or responses to such questions are commercially confidential, the request must be indicated “**Commercial in Confidence**” and Bidders should specify, where possible, such redactions as would render the request and any response non-confidential. The Commissioner will consider the request for confidentiality. However, the Commissioner reserves the right to act in what it considers to be the best interests of a fair procurement process and in accordance with its obligations under the FOIA OR EIR.
- 9.5 Where any response to a request for clarification or the Commissioner’s response thereto contains information which should, in the interests of a fair procurement process, be disseminated to all Bidders, the Commissioner shall be free to disseminate such information to all Bidders, with or without any redactions proposed by the Bidders. Before doing so the Commissioner will inform the Bidder of its intention to do so and offer the Bidder the opportunity to withdraw the request for clarification before such dissemination.
- 9.6 **The Bidder clarification stage will close at INSERT TIME on INSERT DATE.** Questions submitted after this date will not receive a response except in exceptional circumstances, or where the question concerns a system issue (i.e. difficulties with the e-Procurement system itself).

## **10. Commissioner Clarifications**

- 10.1 The Commissioner reserves the right to require Bidders to clarify their Tender submissions, with any such request made to the Bidder’s Authorised Representative. The Commissioner retains a general discretion at any stage of this procurement process to seek clarification from any Bidder in relation to any aspect of the Tender submission.
- 10.2 Clarification questions from the Commissioner must be answered within **2 working days**, unless otherwise stipulated. Failure to respond adequately or within the stipulated time limit to clarification questions may result in a Bidder being excluded from further participation in the procurement process, or the Tender submission being evaluated in an un-clarified state (at the Commissioner’s sole discretion).
- 10.3 The Commissioner may contact (or may require the Bidder to contact on its behalf) any of the subcontractors or consortium members to whom information relates in an ITT submission or any other document, to ask that they testify that information supplied is accurate and true.
- 10.4 The Commissioner reserves the right to seek third party independent advice or assistance to validate information submitted by a Bidder and/or to assist in the Tender evaluation process.

## **11. Amendments to the process or Services**

- 11.1 The Commissioner reserves the right to;



- 11.1.1 Amend the procurement process, evaluation questions, evaluation criteria, Contract, Service Specifications, the conditions for participation, the time limits for contacting the Commissioner, or the award procedure to be applied, or any other procurement requirement at any point during the procurement process and to issue modifications or amendments to this ITT;
  - 11.1.2 Not to consider Tenders other than those specified;
  - 11.1.3 To alter the procurement timetable ;
  - 11.1.4 To cancel, withdraw from, or recommence the procurement process at any stage;
  - 11.1.5 Not to award the contract.
- 11.2 Such action by the Commissioner will be done in the interests of fair and equitable competition, and will not be made in order to benefit any individual Bidder or group of Bidders.
- 11.3 Any amendments to the Process or the Services will be communicated at the earliest opportunity to all Bidders through the e-Procurement system.
- 11.4 Where the Commissioner makes such an amendment, it will ensure that Bidders have an appropriate amount of time in which to digest and respond to the amendment.

## Part B - General Information

### 1. Conditions for Tendering

#### Definitions

In these conditions of Tendering, unless the context otherwise requires, the following expressions shall have the following meanings:-

“Bidder” or “Bidders” shall include any person whom this Invitation to Tender is addressed, and any person who proposes to or does submit a Tender for the Services.

“Commissioner” means NHS England South (**INSERT REGION**)

"Conditions" means the instructions, conditions and terms applicable to this ITT and the procurement of the Services generally.

“Contract” means an agreement to provide the specified services subject to the terms and conditions of the PDS Agreement specified in the Invitation to Tender.

"ITT" means this invitation to tender document (including its appendices) which has been issued to Bidders appointed onto the DPS referred to in Section1, Part A para.1.1

"Project" means orthodontic Services: **INSERT LOT TITLE** which the Commissioner wishes to procure

“Services” means orthodontics services to be provided under the terms of the Contract which the Commissioner wishes to procure.

"Service Specification" means the specification for the Services referred to in Part C of this ITT.

"Tenders" means tender submissions made by Bidders in response to this ITT in accordance with its terms and “Tender” shall be construed accordingly;

### 2. Terms and Conditions

Every Tender received by the Commissioner shall be deemed to have been made subject to these conditions unless the Commissioner shall previously have expressly agreed in writing to the contrary.

No alteration may be made in the Form of Tender or the accompanying documents. If any alteration is made, or if any of the Conditions are not fully complied with, the Tender may be rejected.

The Bidder shall be deemed to have satisfied himself before and during the procurement process as to the correctness and sufficiency of its Tender for the provision of the Services.

### 3. Preparation of the Tender

The Bidder must obtain for himself at his own expense all information necessary for the preparation of its Tender.

Information supplied to the Bidder by the Commissioner or its agent(s), is supplied to the Bidder only for general guidance in the preparation of the Tender. The Bidder must satisfy by its own investigations the accuracy of any

such information, and no responsibility is accepted by the Commissioner or its agents for any loss or damage of whatever kind and howsoever caused arising from the use by the Bidder of such information.

**4. Waiver**

An express waiver or variation of any of these Conditions made in writing by the Authorised Officer for the Commissioner shall bind the Commissioner, otherwise, no other officer of the Commissioner has the authority to vary or waive any of these Conditions.

**5. Form of Tender**

The Bidder is required to complete all declarations contained at Part F. Failure to complete this may result in your Tender being deemed non-compliant and may not be evaluated.

**6. Changes to Tender Information**

Bidders are under a duty to notify the Commissioner promptly should any information contained in their response to this ITT cease to be accurate.

If a Bidder fails to do so where a Bidder has been awarded a contract as a result of this procurement process the Commissioner shall be entitled to terminate that contract.

All Bidder declarations completed should remain valid for the entirety of the tendering process.

If the Commissioner is notified, or otherwise becomes aware, that any information supplied by a Bidder is incorrect, it may seek clarification and updated information and may re-evaluate that Bidder against its evaluation criteria and may, as a result of such re-evaluation, remove the Bidder from the procurement process or if relevant re-score the Bidder's Tender and adjust that Tender's ranking against the other Tenders received.

**7. Canvassing**

If the Bidder or any person employed by the Bidder, whether or not to the Bidder's knowledge:

- Offers, gives or agrees to give to any person any gift or consideration of any kind as an inducement or reward for taking or for not taking action in relation to the contract or any other contract with the any of the SCWCSU Project team or the Commissioner; and/or
- Canvasses any of the SCWCSU Project team or the Commissioner in connection with the Project; and/or
- Contacts any officer of the any of the SCWCSU Project team or the Commissioner prior to the contract being awarded about any aspect of the services in a manner not permitted by this document (including without limitation a contact for the purposes of discussing the possible transfer to the employment of the Bidder of such officer for the purpose of the Project),

The Bidder will be disqualified (without prejudice to any other civil remedies available to the any of the SCWCSU Project team or the Commissioner and without prejudice to any criminal liability which such conduct by a Bidder may attract).

## **8. Confidentiality**

Subject to the exceptions referred to below, this ITT is being made available by the Commissioner to the Bidder on the condition that the information contained within it is used solely in connection with the competitive tender process to procure the Services to the Commissioner and other services to which it relates and for no other purpose.

Bidders should not copy, reproduce, distribute or pass the information to any other person at any time or allow any of these things to happen:

- Bidders shall not use the information for any purpose other than for the purposes of making, or deciding whether to submit a Tender ;
- Bidders shall not discuss information or any aspect of this tendering process in the media nor make any media or publicity statement or comment in relation to it without the express consent of the Commissioner in writing.
- Bidders shall treat all information relating to the procurement, the ITT and their Tender as confidential, and where the information needs to be copied to parties supporting the Bidder, then those parties shall treat it as confidential. Bidders may disclose, distribute or pass information to another person associated with their Tender if either:
  - This is done for the sole purpose of enabling a Tender to be complied / submitted and the person receiving the information undertakes in writing to the Bidder to keep the information confidential on the same terms as set out in this ITT, or;
  - The Bidder obtains the prior written consent of the Commissioner in relation to such disclosure, distribution or passing of information.

The Commissioner may disclose detailed information relating to Tenders to Commissioner Executives, officers or advisors.

The Commissioner also reserves the right to disseminate information that is materially relevant to the Project to all Bidders, even if the information has only been requested by one Bidder, subject to the duty to protect any Bidder's commercial confidence in its Tender.

The Commissioner will act reasonably as regards the protection of commercially sensitive information relating to the Bidder, and commercially sensitive information will be kept confidential and only disclosed on a need to know basis within the Commissioner and the SCWCSU Project team.

## **9. Tender for the Services**

Tenders must be submitted for the provision of the Services as set out in Part C and other parts of this ITT as appropriate, upon the terms of the Contract.

### **Language**

All Tenders must be completed in English

## **10. Signatures**

All documents requiring a signature MUST be signed:-

- where the Bidder is an individual, by that individual;

- **or**
- where the Bidder is a partnership, by two duly authorised partners;
- **or**
- where the Bidder is a company or public body, by two directors or by a director and the secretary, such persons being duly authorised for that purpose.

## **11. Copyright**

The copyright in this document is vested in the Commissioner and its advisers and may not be reproduced, copied or stored in any medium without the prior written consent of the Commissioner.

This document, and any document issued as supplemental to it, are and shall remain the property of the Commissioner and must be returned upon demand.

## **12. Contract Award**

The Commissioner is not bound to accept the lowest or any Tender, nor will it be responsible for, or pay, any expenses or losses which may be incurred by the Bidder in the preparation and completion of their Tender.

If and when a contract award decision is reached, Bidders will be notified of that decision and a voluntary standstill period of ten (10) calendar days will be observed before a Contract is entered into. At the start of the standstill period, appropriate feedback will be provided to unsuccessful Bidders on their Tenders.

## **13. Amendments to Tender Submissions**

At any time prior to the deadline for receipt of Tenders, the Commissioner may modify the ITT documents. The deadline for submission of Tenders may be altered to allow for significant amendments to be fully assessed and taken into account by Bidders.

## **14. Tender Prices**

Prices must be quoted in pounds sterling. The Commissioner will not accept any reliance on a variable exchange rate for pricing.

Pricing submitted as part of this ITT must be capable of acceptance for a period no less than 180 days after the date that ITTs are submitted.

All pricing within a submission shall be firm for the period of the contract and will not be subject to any variation (except for where provided for in accordance with the Contract).

Prices submitted are required to be inclusive of any application of the Transfer of Undertakings (Protection of Employment) Regulations in relation to or arising out of the award of contract for the Services.

It is imperative that Bidders include all costs within their Tender pricing as any shortfall in funding will be at the Bidders' own risk.

The Contract will operate on a 'block' basis with payments made as stipulated in the Contract, unless this is altered by mutual agreement of the Commissioner and Provider at a later date.

Prices submitted should not be caveated or qualified and the Commissioner reserves the right to reject Tenders which seek to do so.

**15. Costs**

The Commissioner accepts no liability to pay for any work undertaken by any Bidder or other organisation in connection with this procurement. All costs, expenses and liabilities incurred by Bidders in connection with the bidding and due diligence process for the Services shall be borne by Bidders.

For the avoidance of doubt this includes (but are not limited to) costs and fees incurred by Bidders in instructing lawyers, designers, accountants and other advisors, participation in negotiations, and preparation and submission of any Tender documentation.

By returning its response to this document, the Bidder confirms its understanding and acceptance of the fact that it shall have no claim whatsoever against the Commissioner in respect of such costs and fees and in particular (but without limitation) the Commissioner shall not make any payments to any Bidder save as expressly provided for in any agreement if and when any such agreement is entered into.

For the avoidance of doubt the Commissioner accepts no liability for abortive costs of unsuccessful Bidders at any stage, or abortive costs in the event that the Commissioner decides to abandon, vary or recommence the award procedure.

**16. Modification and Withdrawal of Tenders**

No Tender submission may be modified after the deadline for receipt.

Tender submissions may be withdrawn at any time before the award of Contract, providing such intention is expressed in writing to the procurement lead (see Part A para 4.1 of this ITT). Any such withdrawal must be made through the e-Procurement system.

Any withdrawal of a Tender submission is irrevocable, and any Bidder withdrawing their Tender submission will be automatically excluded from the further participation on the procurement process for the Services contemplated in this ITT.

**18. Freedom of Information, Environmental Information Regulations 2004  
Transparency Requirements, Debriefing and OJEU Publication**

*FOIA and EIR*

The Commissioner is subject to the requirements of the Freedom of Information Act 2000 (the "Act") and the Environmental Information Regulations 2004 ("EIR"). Accordingly, all information submitted to it may need to be disclosed by the Commissioner in response to a request under either the Act or the EIR (a "Request").

In making any submission during this procurement process, each Bidder acknowledges and accepts that information contained therein may be disclosed by the Commissioner under the Act or EIR without consulting the Bidder, although the Commissioner will endeavor to consult with the Bidder and consider its views before doing so.

If Bidders consider that any information made available to the Commissioner is commercially sensitive, they should identify it and explain (in broad terms) what harm may result from disclosure, and the time period applicable to that

sensitivity. Even where information made available to the Commissioner is marked commercially sensitive, the Commissioner shall be entitled (acting in its sole discretion) to disclose it pursuant to a Request. Please also note that information marked "confidential" or equivalent by Bidders does not bind the Commissioner to any duty of confidence by virtue of that marking.

Exemptions to disclosure pursuant to a Request do exist and the Commissioner reserves the right to determine (acting in its sole discretion) whether there is any available exemption and whether to disclose any information made available to it by Bidders pursuant to any Request. If you are unsure as to the Commissioner's obligations under the Act or EIR regarding the disclosure of sensitive information please seek independent legal advice.

### *Debriefing*

Bidders should be aware that the Commissioners will be providing feedback to unsuccessful Bidders on their Tenders. Where the successful Bidder scored higher, feedback will also be provided to unsuccessful Bidders on the relative merits of the successful Bidder's Tender. In particular, the Commissioner reserves the right to provide details of the price score attained by the winning Bidder as part of this process and participation by Bidders in any Tender will be taken as acknowledgement and acceptance of these conditions.

### *OJEU Publication*

The Commissioner reserves the right to publish the overall contract price of the successful Bidder in any contract award notice to be published in the Official Journal of the European Union (OJEU) in accordance with the Public Contracts Regulations and participation by Bidders in any Tender will be taken as acknowledgement and acceptance of this condition.

## **19. TUPE**

The attention of Bidders is drawn to the provisions of the European Acquired Rights Directive EC77/187 and TUPE (Transfer of Undertakings Protection of Employment Regulations). TUPE may apply to the transfer of the Contract from the incumbent provider to the incoming provider, giving the present provider's staff (and possibly also staff employed by any present sub-contractors) the right to transfer to the employment of the successful Bidder on the same terms and conditions. The above does not apply to the self-employed.

Bidders are advised to form their own view on whether TUPE applies, obtaining their own legal advice as necessary.

To assist in this process the Commissioner has sought workforce details from the incumbent provider/s. The Commissioner provides no warranty as to the accuracy of any such information supplied and accepts no liability for any inaccuracies that are contained within it or for any omissions from such information. Bidders must form their own view and make their own enquiries as to whether TUPE will apply and as to the workforce implications if it does.

This information will be supplied to Bidders on opting in to the call for competition on the basis that it is treated as strictly confidential; that it is not disclosed except to such people within the Bidder's organisation, and to such extent as is strictly necessary for the preparation of the Tender; that the Bidders will observe the Information Commissioner's Office's Data Protection

Good Practice Note on Disclosure of Employee Information under TUPE and that it is not used for any other purpose. By receiving this information from the Commissioner a Bidder will be deemed to have agreed to abide by these obligations of confidentiality.

The successful Bidder will be required to indemnify the Commissioner against all possible claims under TUPE.

It is a further requirement that the successful Bidder will pass on all details of their own workforce towards the end of the Contract period so that this information can be passed to other bona fide Bidders to enable them to assess their obligations under TUPE in the event of a subsequent transfer occasioned by a future tender process.

To request to receive TUPE information, Bidders should contact the procurement team through the e-Procurement messaging system.

## **20. Law**

This ITT, the entire procurement process, and any Contract arising from it, shall be governed by and construed in accordance with the laws of England and in the event of any dispute relating thereto the parties hereto submit to the jurisdiction of the Courts of England.

## **21. Accuracy of Information**

The information in this ITT has been prepared by the Commissioner in good faith but does not purport to be accurate, complete and exhaustive, or to have been independently verified.

Bidders should not rely on the information set out in the ITT and should carry out their own due diligence checks and verify the accuracy of the information.

No information in this ITT is warranted by the Commissioner or its advisers and further shall not be taken nor deemed a promise or representation as to the future.

Neither the Commissioner, its advisers, nor the officers, members, partners, employees, other staff, agents or advisers of any such person makes any representation or warranty (expressed or implied) as to the accuracy, reasonableness or completeness of the Information provided in this document or at any other stage of the procurement process for this Project leading up to the execution of the Contract t nor shall any of them be liable for any loss, damage or expense (other than in respect of fraudulent misrepresentation) arising as a result of reliance on any such information.

Any persons considering making a decision to enter into contractual relationships with the Commissioner on the basis of the information provided should make their own investigations and their own independent assessment of the requirements for the provision of the Services and associated issues and should seek their own professional financial, technical and legal advice.

Bidders shall be deemed to have carried out their own due diligence enquiries and investigations prior to entering the Contract and in any event shall be deemed to have done so. .

Except in relation to data warranted by the Commissioner as finally agreed in the Contract, Bidders shall further be deemed to have carried out all necessary research, investigations and due diligence and all necessary



enquiries in order to have satisfied themselves as to the nature, extent, volume and character requirements of the services, their obligations described in this document, the extent of the personnel, equipment, property and assets which may be required and any other matter which may affect their Tenders, pricing, projections or financial modelling.

The Commissioner shall not make any payments to the successful Bidder save as expressly provided for in the Contract and no compensation or remuneration shall otherwise be payable by the Commissioner to the successful Bidder by reason of the scope of the, Services or requirements relating to the Tender being different from that envisaged by the successful Bidder or otherwise.

The ITT is not intended to provide the basis of any investment decision and should not be considered as a recommendation by the Commissioner or any of its advisors to any recipient.

## **Section 2 – Service Specifications**

This section provides signposts Bidder's to the Service Specification.

## **Part C – Contract and Service Specification**

**The draft PDS Agreement and service specification are provided as separate document within the e-Procurement system. If Bidders have difficulty opening the document then they should contact the procurement team through the e-Procurement messaging system.**

The following appendices have also available within the e-Procurement system:

- Lot Data Sheet
- Clarification Question Template
- TUPE information embedded within the Financial Model Template (FMT) (if applicable or TUPE statement if not) Section 3 – Tender evaluation methodology and questions

This section provides the methodology and criteria for the scoring of Tender submissions.

## **Part D – Tender Evaluation Methodology**

### **1. Evaluation process**

#### **1.1 Introduction**

Tender responses are invited from Bidders that have been admitted to the DPS as listed in Part A, 1.1.

The evaluation of Tenders will be based on a Most Economically Advantageous Tender (MEAT) approach, therefore both quality and cost elements will be taken in to account as detailed below.

The Commissioner reserves the right to vary the award procedure for any fair, transparent and proportionate reason at its sole discretion.

#### **1.2 Outline process**

Evaluation of Tenders will be conducted in the following stages:

- a) Tender compliance review
  - i. Check for completeness and compliance
- b) Qualitative and Financial evaluation of Tenders
  - i. Individual scoring by panel members
  - ii. Tender clarifications (if applicable)
  - iii. Moderation
- c) Award

### **2. Tender Compliance Review**

Tenders will first be checked for completeness and compliance with the below requirements before responses are evaluated. The compliance review will check that Tenders:

- Are submitted by the due date and time;
- Contain all declarations completed and signed;
- Are within set word limits for each relevant question (where applicable);
- Use appendices and attachments in accordance with the requirements of this document; and
- Are within the Commissioner's Price Range as stated and that all tabs are completed within the given spreadsheet.

Where in the opinion of the Commissioner a Tender (or any part thereof) does not meet the above criteria then it may be deemed non-compliant, and the Bidder disqualified. In this event, further evaluation of the Tender will not be undertaken.

### **3. Quality and Financial evaluation of Tenders**

#### **3.1 Quality**

Subsequent to the Compliance Review, Evaluators will complete an individual evaluation of submissions based on the Tender responses received. Evaluations will be conducted in line with the evaluation criteria and evaluators will be required to provide an explanation in support of each score. No prior information or knowledge of Bidders will be taken into account and each Tender will be evaluated based on its own merits and not in comparison with any other submission.

#### **3.2 Financial**

The financial evaluation will be based on Bidders' response to a financial template. The financial evaluation will run alongside the qualitative evaluation.

The financial template will be studied in detail to ensure it is compliant (i.e. affordable) and that no errors or clear omissions have been made. Bidders will be offered the opportunity to rectify clear arithmetic errors.

The financial templates will also be studied for robustness at this stage.

The Tender price submitted must include all costs to deliver the Services as described in the Service Specification and the Bidder's own qualitative response. The Commissioner will not accept any liability for any additional costs resulting from failure to adequately cost any elements of the Tender. Any material caveat or qualification in a completed financial template (including but not limited to any that implies some additional unknown cost) will make a Bidder's submission non-compliant.

Any Tender returned outside of the price range stipulated for the exercise will be disqualified.

Prices submitted are required to be inclusive of any application of the Transfer of Undertakings (Protection of Employment) Regulations (as amended) in relation to or arising out of the award of the Contract for the Services.

Bidders will also have to detail all other assumptions they make in the building of their costs. However, Bidders should note that in explaining assumptions should not be caveating and qualifying their Tenders and Tender price submissions should adhere to the financial template format and requirements.

### **4. Moderation**

When the independent evaluation process has been completed by all of the evaluators, a moderation process will be coordinated, the purpose of which is to ensure the consistency and appropriateness of each individual evaluator's scores. When the moderation has been completed, a final moderated score will exist for each applicable question. The question/section weightings provided in the ITT will then be applied.

### **5. Total Scores**

Final, weighted scoring will be collated and the Bidder with the highest total combined score for Quality and Finance will be recommended for award of contract.

### **6. Award stage**

If and when a final contract award decision is reached, Bidders will be notified of that decision and a voluntary standstill period of ten (10) calendar days will

be observed before a Contract is entered into. At the start of the standstill period, feedback will be provided to unsuccessful Bidders on their Tenders. Where the successful Bidder scored higher, feedback will also be provided to unsuccessful Bidders on the relative merits of the successful Bidder's Tender.

Award decisions are not binding on the Commissioner and an award decision alone will not constitute any form of Contract. Should post-award clarification discussions breakdown between the Commissioner and one or more of the awarded Bidders, the Commissioner may, at its absolute discretion, re-open discussions with any Bidder.

No material negotiation will take place at this stage.

**7. Evaluation panel and role of evaluators**

The evaluation methodology provides the evaluation panel with a way of applying a clear rationale to their decision making, and will ensure equality in the treatment of Bidders.

Members of the evaluation panel will:

- Read and review Tender responses
- Evaluate Tender submissions in line with the evaluation criteria
- Attend evaluation moderation meetings as appropriate
- Through consensus scoring, contribute to the recommendation as to which Bidder's offer represents the most economically advantageous tender.

The evaluation panel will consist of subject matter experts, who will review and evaluate sections of the Tender which are relevant to their area of expertise and experience. Therefore the majority of evaluators may not score the entire submission and Bidders must ensure the response to each question is self-contained as per the guidelines in section 8.1 below.

**8. Scoring mechanism and criteria**

**8.1 Scoring matrices**

Subsequent to Tenders being deemed compliant at the Tender compliance review, the following scoring matrices will be applied to Tender submissions

**8.1.1 Pass / Fail Questions**

<b>Assessment</b>	<b>Interpretation</b>
Pass	Either confirms compliance / acceptance with the requirement or provides acceptable and appropriate evidence of capability and capacity
Fail	Does not confirm compliance / acceptance with the requirement, or does not provide acceptable and appropriate evidence of capability and capacity

Any Tenders which answer "no" to the pass/fail compliance questions at the beginning of the online questionnaire will result in the Tender being disqualified.

### 8.1.2 Scored Quality Questions

Assessment	Interpretation	Score
Deficient	Response to the question (or an explicit requirement) significantly deficient or no response received	0
Limited	Limited information provided or a response that is inadequate or only partially addresses the question	1
Acceptable	An acceptable response submitted in terms of the level of detail, accuracy and relevance	2
Good	A good response submitted in terms of detail and relevance	3
Excellent	As Good but to a significantly better degree or likely to result in increased quality (including improvement through innovation)	4

### 8.1.3 Scored Tender Price

The Service will operate on a fixed price tariff. The Commissioner has a budget range available **from a minimum of £54.89 to a maximum of £58.89 per Unit of Orthodontic Activity (UOA) based on the 17/18 prices** (the 'Price Range'). The Price Range will be subject to Dentist and Doctor Pay Review (DDRB) adjustments in the period up to April 2019 and annually thereafter.

Bidders are requested to submit a Tender price within the Price Range.

Any Bidder who submits a Tender price above or below the Price Range above range will be disqualified.

#### Step 1

All Tender prices, which equal the minimum price range available of £54.89 per UOA will receive the full 15% weighted allocation. All Tenders which exceed £54.89, but do not exceed the maximum price range available of £58.89 per UOA will be evaluated using the below gradient scale;

Price	Percentage Weighted Score (%)
£57.90 - £58.89	7
£56.90 - £57.89	9
£55.90 - £56.89	11
£54.90 - £55.89	13
£54.89	15

### 8.1.4 Scored Financial Model Template (FMT)

The financial model template will be evaluated to assess the Financial Risk in the Tender. Financial Risk will be assessed based on the following:

i) Cash Flow – the ability of the Bidder to fund the cash flow required for the Services.

ii) Evaluation of FMT & Correlation with Service Model - completeness of FMT and the Bidder's response to the service model as part of its overall ITT response will be reviewed. The financial response from the Bidder will then be evaluated for correlation with the service model.

- Risk will be graded as; low, medium or high for both of the above risk areas.
- The risk assessments for each of these areas will then be translated into an overall consolidated single financial risk measure of low, medium or high for the Tender as a whole.
- Any Tender whose overall consolidated financial risk measure is graded as high, will be disqualified.

iii) Overall Financial Risk Score - the overall consolidated financial risk score will be given a weighted percentage score.

#### **i) Cash Flow**

##### Positive Cash Flow and Bank Balance

Where a Tender has no negative cash flow in any year over the life of the Contract for the Services and the bank balance is always positive for each of the seven years Contract term (not in overdraft) then the Tender will be assessed as "Low" risk for Cash Flow.

##### Negative Cash Flow or Bank Balance

Where there is negative cash flow and that negative cash flow is covered by a confirmed source of funding, the Tender will be assessed as "Low" risk for Cash Flow if:

- The Bidder has a confirmed and unconditional letter/agreement of external funding or
- The Bidder has a confirmed and unconditional source of internal funding (backed up by a Parent Company Guarantee if relevant)

Where there is negative cash flow and that negative cash flow is covered by some evidence of funding the Tender will be assessed as "Medium" risk for Cash Flow if:

- The extent of the negative cash flow is not material given the context of the Tender and / or
- The Bidder provides evidence that allows the evaluators to conclude that it is likely the funding will be available

Where there is negative cash flow the Tender will be assessed as "High" risk for Cash Flow if:

- The Bidder fails to provide evidence that allows the assessors to conclude that it is likely that the funding will be available and / or
- The extent of the negative cash flow is material given the context of the Tender

#### **ii) Evaluation of the FMT and Correlation with Service Model**

The FMT will be assessed for completeness. The Bidder's response to the service model as part of its overall ITT Response will be reviewed and the financial response from that Bidder will then be evaluated for correlation with



the service models e.g. staff costs against workforce questions using the grade label below;

Grade Label	Score	Definition
Meets requirements	Low Risk	The expenditure detailed within the FMT correlates clearly and in detail to the relevant questions within the ITT response. The Bidder has understood the requirements and this is reflected in the information provided in the FMT.
Low degree of confidence	Medium Risk	Some misunderstandings and/or a generally low level of information and detail. Provides insufficient confidence that the Bidder has understood the FMT requirements or included all information / costs required to support the proposed service model
No relevant information	High Risk	No or minimal information

**iii) Overall Financial Risk Score** From the above each Tender will have two financial risk scores for:

- 1) Cash Flow; and
- 2) Evaluation of FMT & Correlation with Service Model

Any “High” risk Cash Flow assessment will result in a “High” risk score overall for financial risk.

If Cash Flow is “Medium” then the overall financial risk score will be determined as follows:

- as “High” overall financial risk if there is a “High” risk score from the FMT category
- as “Medium” in any other case

If Cash Flow is “Low” then the overall financial risk score will be determined as follows:

- as “Medium” if there is a “High” risk score from the FMT category
- as “Low” risk if there is a “Medium” or “Low” risk score from the FMT category

For ease of reference, the methodology for determining the Overall Financial Risk Score is summarised below in tabular form

Cash Flow Risk Score	FMT/Correlation Risk Score	Overall Financial Risk Score
High	High	High
High	Medium	High
High	Low	High
Medium	High	High
Medium	Medium	Medium

Medium	Low	Medium
Low	High	Medium
Low	Medium	Low
Low	Low	Low

**iv) Weighted Financial Risk Score**

The Bidders overall financial risk score will be given the following weighted percentage;

Overall Financial Risk Score	Percentage Weighted Score (%)
Low	5.00
Medium	3.00
High*	0

**IMPORTANT - \* Any Tender whose overall financial risk score is determined as High, will be disqualified.**

**8.2 Scoring weightings**

Evaluation will be conducted in Quality and Financial streams, with each stream having the following relative weightings:

Section	Section Weighting
Quality	80%
Financial	
- Scored Tender Price	15%
- Financial Model Template	5%
<b>TOTAL</b>	<b>100%</b>

**8.2.1 Quality**

Quality questions are split into sections with specified weightings. Individual questions within each section are weighted where specified. The Quality questions take the form of an online questionnaire on the e-Procurement portal.

The Quality questions and weightings are provided within the document referenced at Part F.

The information contained within the questions is provided as guidance to form your response and no bullet point will be given more weighting than any other.

**9. General Points**

**9.1 Completeness**

Bidders are required to answer all questions and respond fully to each question.

Bidders should be aware that each question will be scored on a 'stand-alone' basis and that the response to each question must therefore be self-contained and not rely on information provided in responses to other questions.

Bidders should not assume that any information provided by them during any other phase of the procurement, or to the Commissioner in any other context, will be considered or referred to for evaluation.

In evaluating a submission, the Commissioner will only consider information provided in response to this ITT. Bidders should not assume that the Commissioner has any prior knowledge of the Bidder or their Bidder Members, its practice or reputation, or its involvement in existing services, projects or procurements.

Bidders are wholly responsible for the accuracy and completeness of the information provided in response to this ITT. This includes information submitted in relation to Bidder Members.

## 9.2 **Bidder identity**

The Commissioner reserves the right to generally disclose the identity of Bidders at any stage of the procurement process. In the event of disclosure, the Commissioner will advise Bidders of the nature and extent of the disclosure, and the reason that disclosure is taking place.

Bidders shall not undertake (or permit to be undertaken) at any time, whether at this stage or prior to entering into the Contract, any publicity activity with any section of the media in relation to the Project other than with the prior written agreement of the Commissioner. Such agreement shall extend to the content of any publicity. In this paragraph the word "media" includes (but without limitation) radio, television, newspapers, trade and specialist press, the internet and email accessible by the public at large and the representatives of such media.

## Part E – Tender evaluation questions & financial template

This Part E relates to the Quality questions to which Bidders must respond, and the financial template that Bidders must complete in order to submit a Tender.

The following is required within a submission:

- Response to all Quality questions
- Completed and compliant Financial template
- Appendix of all requested documents as applicable, in the format prescribed
- Bidder Declarations all complete and signed as found at Part F

Any documents requested (including completed Financial Templates) must be uploaded to the associated placeholder on In-Tend.

### Quality questions

- Bidders must submit an answer for every question within the e-Procurement system.
- Individual questions each have a word limit. Bidders should refer to the detail on word limits within the document referenced below to ensure their Tender is compliant.
- Bidders should ensure their Tenders are made with due regard to the national specification, the LOT specific data sheet, the information contained within the questions and any other publically available local information as appropriate. For the avoidance of doubt, all evaluation questions should be responded to with regard to the specific geography being tendered for
- Where **attachments** are **required** in addition to the word response, this is indicated within the document referenced below. For these mandatory attachments, unless specified otherwise, named 'placeholders' are provided to upload document(s) into and referenced in the foot note to the question.

#### **Please note:**

Appendices should only be used where necessary, and must be relevant to the question. No generic or unreferenced organisational literature should be submitted as it will be ignored.

Appendices should be clearly labelled following the requirements detailed in Part A, Section 1, Paragraph 8.8 above.

If attachments are deemed as a continuation of the word response and exceed the word limit then they will be discarded.

Questions which do not require an attachment and therefore any information/appendices submitted within the return that has not been specifically requested or deemed irrelevant to the question may not be considered. (Please see Section 1, Part A, paragraphs 8.5 - 8.12 of this document).

### Financial template

- Pricing must be submitted in compliance with the financial template, and the template must be fully completed.
- For comparative purposes, Tenders must be based on an 84 month contract.
- All assumptions made during completion of the Financial Template must be clearly articulated.

- The Commissioner may seek clarifications from Bidders during the evaluation process.

***A PDF document version of the Quality and Finance question set can be found attached within in the e-Procurement system for reference purposes only.***

The Quality questions are provided as an online questionnaire within the e-Procurement system. If Bidders have difficulty accessing the questionnaire then they should contact the Procurement Team through the e-Procurement messaging system.

The financial template for completion is provided as an Excel document within the e-Procurement system. If Bidders have difficulty opening the document then they should contact the Procurement Team through the e-Procurement messaging system.

## **Part F - Declarations**

Tenders must be submitted in the format contained in this documentation, and must be accompanied by the following signed declarations:-

- Form of Tender
- Conflict of Interest
- Collusive Tendering Declaration
- Canvassing Declaration

**The Declaration forms for completion are provided as documents within the e-Procurement system. Please print, sign (according to the instructions detailed in Section 1, Part B, paragraph 11) and attach to the appropriate placeholder provided on In-tend as part of your return.**