

Questions Received During HSC Procurement Awareness Events March – May 2017

Question	Response
1. Is there a date when the procurement legislation will apply?	The Public Contract Regulations 2015 became UK law in February 2015.
2. What is the Procurement Pipeline?	BSO PaLS along with the other HSC organisations are currently developing a procurement pipeline of anticipated future procurements. This pipeline for over threshold Social Care procurements will be published on the BSO website: http://www.hscbusiness.hscni.net/services/2564.htm
3. Where will over EU threshold procurement opportunities be advertised?	BSO PaLS will advertise all over threshold procurement opportunities on the eTendersNI portal. Tenderers are advised to register on eTendersNI and be prepared in advance of any Tenders being advertised. https://etendersni.gov.uk/epps/home.do
4. Can you address the uncertainty around which contracts will be tendered?	HSC Organisations and BSO PaLS are working together to define and agree a process. Providers are encouraged to keep checking the eTendersNI portal for tender opportunities and the BSO website for the social care procurement pipeline.
5. Where will below EU threshold opportunities be advertised or how will Providers be invited to participate?	HSC Organisations (HSCB, PHA, Trusts) may choose to advertise under threshold procurements on the eTendersNI portal. The Public Contract Regulations 2015 do not apply to these opportunities.
6. What determines whether a contract is over or under the threshold? In relation to contracts that had previously rolled forward, will these contracts now be tendered every 3 years regardless of performance and previous service?	The value of the service over the contract period determines whether a contract is over or under the threshold, e.g a service valued at £150k per annum over an initial three year contract period with potential for 2x12 month extensions will be valued at £750k (5 years) and will therefore be competed as an over threshold procurement. When a contract is awarded it will run for the initial contract period. Contract extensions are not guaranteed and can be dependent on a number of factors i.e. performance, funding etc. Note - a Contract may be terminated due to poor performance at any time.
7. Will every contract run for four years?	The length of a contract period, including any extension periods, will be agreed on a case by case basis and will be specified within the tender documents.

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8. Will procurements be advertised in cases of individual Service Users with complex health needs?	The complexity, nature and value of these types of services will be taken into account in determining the most appropriate procurement route.
9. When procurements are advertised will they go to only Primary Providers or Secondary Providers as well?	Over threshold tender opportunities will be advertised on the eTendersNI portal and will be open to all Providers. Albeit there will be qualification criteria to be met.
10. Is there a facility on the eTendersNI website to select which tenders you wish to be notified about?	When Providers first register on the portal there is an option to choose the Common Procurement Vocabulary (CPV) codes that they are interested in. We would advise you to select a broad range of CPV codes in the first instance and filter later. The system will then notify you via email when tenders relating to your chosen CPV codes are advertised. It is still advisable to check the portal regularly for tender opportunities.
11. It can be difficult to choose from the list of CPV codes, are there specific codes to use?	The Public Contract Regulations set out which CPV codes are relevant to Health and Social Care Services; the full list of CPV codes can be downloaded from https://simap.ted.europa.eu/cpv in an Excel format.
12. What is the Tender Evaluation Tool?	The Tender Evaluation Tool is a software application that Tenderers must download initially from the eTendersNI portal in order to draft and submit their tender response. Providers are advised to do this well in advance as this can take time to download.
13. Once a tender has been awarded will there be an opportunity to receive feedback?	Yes, all Tenderers will receive written debriefing/feedback information.
14. How do you build flexibility for costs over the duration of a contract?	The Terms and Conditions set out in the tender documents/contract will identify whether prices are fixed for the duration of the contract, fixed for a certain period of the Contract or can be reviewed at predetermined stages or situations.
15. As part of the eTendersNI portal suppliers are required to accept terms and conditions, can there be any negotiation on these?	There will be no negotiation on the Terms and Conditions of the Contract. If the service/tender is subject to consultation and premarket engagement then there may be scope to influence the specification at that stage.

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16. Can there be any variation to Terms and Conditions during the contract period?	The Terms and Conditions of Contract will specify any scope for variation to the delivery of the service.
17. Will it be likely that you will use the process of competitive dialogue?	The procurement procedure used will be determined on a case by case basis. Competitive Dialogue may be used where deemed appropriate.
18. Will it be likely that you will use Pre-Qualification Questionnaires?	The procurement procedure used will be determined on a case by case basis. The Restricted Procedure/Pre-Qualification Questionnaire may be used where deemed appropriate.
19. Are there any plans to involve Service Users in the process?	Service Users may be involved via Personal and Public Involvement (PPI) activities and may be involved in the tender process where it is appropriate to do so.
20. Will pre-market engagement activities include potential providers or just existing providers?	If pre-market engagement activities are carried out then these will be advertised on eTendersNI via a Prior Information Notice (PIN) and will be open to all interested providers to respond as indicated.
21. Where does the Children's Services Cooperation Act sit within your plan?	All relevant legislation will be considered in the planning of any tender, along with any implications for HSC and collaborative arrangements with other public bodies.
22. Is it advantageous to form partnerships or consortia with other providers and organisations?	Consortia and other partnership arrangements are welcomed and encouraged to bid for tender opportunities.
23. How is the ratio for the most economically advantageous tender (MEAT) decided?	All procurement processes will be evaluated based on the Most Economically Advantageous Tender (MEAT) as detailed in the tender documentation. Tenders will seek to determine the best quality - price ratio reflecting the services to be secured. This quality-price ratio will be detailed in the Tender Evaluation Methodology and Marking Scheme (TEMMS) document within the suite of tender documents.
24. What is the rationale for cost in evaluation?	All public procurement processes seek to achieve Value for Money for the public purse. Value for Money is detailed in the NI Public Procurement Policy as <i>"the most advantageous combination of cost, quality and sustainability to</i>

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	<i>meet customer requirements”</i> (See presentation, slide 11)
25. What will the weighting be for these types of contracts?	Weightings will be dependent on the service being provided and will be decided by the Contracting Authority’s Evaluation Team and detailed in the TEMMS document.
26. Does the Light Touch Regime allow for tenders not to be based on price?	Legislation allows the Contracting Authority to assess and agree the most appropriate ratio between quality and price.
27. How is quality criteria evaluated?	Quality criteria will be set on a case by case basis and will be scored in accordance with the TEMMS document. This document is specific to each tender process and Tenderers are advised to read it carefully in order to understand how each section will be evaluated.
28. Can you explain what is meant by the three envelope system?	There are three “ <i>envelopes</i> ” reflecting the structure of eTendersNI - Eligibility, Technical and Commercial. The envelopes are fully explained in the TEMMS document. Tenderers are advised to read this document carefully.
29. In relation to TUPE information, how do you ensure quality in the information provided?	The Contracting Authority will seek TUPE information from the incumbent provider(s) and include this information as part of the tender documents. The Contracting Authority cannot guarantee the accuracy of the information as ultimately this is the incumbent provider’s information.
30. Is it the Commissioners who will develop the service specification and what is their responsibility in relation to PPI activities?	The Contracting Authorities (Commissioner) may undertake a range of activities to inform the development of their service specification which could include PPI.
31. Why can attachments not be uploaded for all questions on the eTendersNI portal?	Attachments are only permitted when specifically requested in a question. It is important that responses are clear and concise and that Tenderers read, understand and follow the instructions provided in the tender documentation.
32. How is the contract value determined in the case of a Provider holding a similar contract with more than one Contracting Authority?	The contract value is determined by what is included within that contract and who the listed participants are e.g. some contracts may be for one Trust, some contracts may be regional and include all Trusts, HSC organisations. It will be dependent on the nature of the service as to whether contracts will be amalgamated as regional procurement exercises incorporating individual

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	Contracting Authority lots.
33. Will Regional Procurements be awarded to one supplier?	The HSC may seek to minimise procurement activities by running regional competitions. As part of developing these regional competitions consideration will be given as to whether resultant contracts should be split into lots. The evaluation of individual lots will be detailed in the TEMMS document.
34. How will services of a similar nature which are currently delivered to more than one Trust be taken forward in the future and will procurements be run regionally?	There may be scope for some services of a similar nature to be taken forward regionally incorporating two or more Trusts or lots. The tender documents will describe the scope of the tender and will list the participating Contracting Authorities. (See also 33, above)
35. Are the identities of the Evaluation Teams made public?	Information in relation to the service roles of Evaluation Team members may be made available but it would not be normal practice to name individuals.
36. How do you choose social values/clauses to include in procurements and how will you ensure that social values/clauses are appropriate to the nature of the service?	Whilst PaLS will seek to include Social Clauses, advice will be sought from the Service Professionals as to what social clauses may or may not be deemed appropriate to include in each tender.
37. If social values/clauses are deemed appropriate, will this be a scored question or how will this be evaluated?	Where social values/clauses have been included in a tender these will be detailed within the tender documentation. In some cases it may be appropriate to include them in the evaluation and if so, the detail of how they are evaluated will be provided in the TEMMS document.
38. What is the value by which a contract can increase during the term of the contract?	The value by which a contract can increase/decrease during the contract term will be dependent on the Terms and Conditions as set out in the tender documents.
39. How can smaller organisations successfully compete against organisations who can afford to hire consultants to bid on their behalf?	Smaller organisations with experience in the sector can be well placed to complete the tender as they have the knowledge of the service. All organisations are encouraged to avail of the free advice and support that is available to all, please refer to links in the presentation.
40. When will procurements become outcome focused?	There is an aspiration that these services contracts would be outcome based to meet service user needs. The ability to achieve this will be on a case by case

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	basis dependent on the strategic outcomes determined for a service.
41. Are there set criteria used to assess financial standing during tender evaluation?	Financial criteria are assessed on a case by case basis and will be proportionate to the value/size of the tender. The criteria for assessing financial information will be detailed in the TEMMS.
42. What are the reasons behind a Contracting Authority seeking detailed financial information after a contract has been awarded?	The Contracting Authority may wish to reassure themselves of the continued financial viability of the Provider and therefore may seek financial information after a contract has been awarded.
43. Are individual members of a Consortium assessed individually on their financial standing?	Where there is a consortium/group of Providers bidding for a tender then each member of the consortium/group of Providers will have their financial standing assessed as detailed in the TEMMS.
44. What happens if a Provider cannot produce three years accounts because they are a new company?	The Contracting Authority Evaluation Team will determine the financial criteria to be assessed for each tender and this will be clearly detailed in the Tender documentation.
45. If a group of Providers come together to form a limited company then will the previous experience of the individual Providers be taken into account?	The Contracting Authority Evaluation Team will determine the criteria in respect of previous experience to be assessed for each tender and this will be clearly detailed in the Tender documentation.
46. What is the legal process if a challenge is made during the Standstill period?	Tenderers must seek their own legal advice in this respect.
47. How will European funding/Match funding be dealt with going forward?	EU funding / match funding falls within the Grant domain and as such will not be part of a procurement exercise.
48. How will you approach joint funding – Housing Executive as an example?	Public bodies routes to funding services can include grant or procurement mechanisms. This variation in approach can cause difficulties when multiple public bodies come together to fund a service. It will be necessary for these bodies to collectively determine a funding solution which meets each of their respective legislative requirements.
49. Can a Tender be limited so that only Social Economies can tender?	The Contracting Authority will consider the most appropriate process for each tender. In certain circumstances it may be possible to restrict bidders so that

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	only Social Economy Enterprises can bid for a tender, however, there are constraints to this. A successful Social Economy Provider will be limited to a three year contract and will not be eligible to re-apply when that service is retendered.
50. Do the regulations apply to self-directed support?	The regulations may apply depending on the aggregate value of spend.
51. Will adult social care contracts be procured if Service Users are using self-directed support?	The regulations may apply depending on the aggregate value of spend.
52. What are the consequences to the procurement process when the UK leaves the European Union?	The consequence are unknown but it is not expected that there will be any major changes to the procurement legislation as the EU Regulations have already been transposed into UK law.
53. What about the responsibility of the Procurement Team in terms of sticking to the timescales of the procurement process?	Contracting Authorities Evaluation Teams will endeavour to ensure timescales are achievable and met. However procurements may fall behind for a range of reasons.
54. In regards to the Threshold, if a Provider is delivering Supported Living Schemes to more than one Trust will the value be seen as cumulative or as the value for each contract?	Refer to Question 32 and 33 above.
55. Will the Trusts have to compete for work from the Commissioners?	There is no legal requirement for public to public contracts to be competed in a procurement process.
56. Are there any assurances that there will be flexibility in contracts when a Service Users' needs change?	Contracting Authorities will seek to develop service specifications which reflect the need for flexibility in meeting client needs and these will be detailed in the Terms and Conditions of the tender.
57. Will price be looked at as a breakdown of costs or as the overall cost to deliver a service?	How price will be viewed/evaluated will be dependent on the tender in question and will be detailed in the TEMMS document.

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58. Has consideration been given to historic contracts where a Provider has been investing or subsidising money into a service?	Contracting Authorities in developing a service specification will seek to consider all aspects of existing arrangements including the available budget.
59. Will past performance be taken into account during the evaluation of new contracts?	Past performance may be taken into account in the evaluation of a tender and if so, it will be detailed in the TEMMS document.

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