|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **MS NO (to be deleted)** | **CONTRACTING AUTHORITY / PRIME CONTRACTOR COMPLAINT AGAINST** | **ISSUE WITH PROCUREMENT** | **DESCRIPTION OF COMPLAINT** | **OUTCOME OF CASE / RECOMMENDATIONS** |
| **MS 941** | NEWDudley Group NHS Foundation Trust | Procurement Process | A Mystery Shopper raised a concern about a specification for pathology equipment that it perceived had been written so that only one supplier would be able to meet the requirement.  | The Trust was unaware that the specification had this effect and so acted quickly to amend the requirement and send out to all bidders. |
| **MS 919** | NEWMinistry of Defence (MOD)  | Procurement Process | A Mystery Shopper felt there was insufficient information in a specification for technical support in a call off from the MOD Framework Agreement for Technical Support (FATS) As a result, the Mystery Shopper felt that only the incumbent supplier would be able to bid for the work.  | MOD felt that the specification was written clearly and that suppliers had the opportunity to raise queries and to seek further clarification if required. Responses to clarification questions are sent to all suppliers invited to submit tenders. MOD received one clarification about the specification. A number of suppliers informed MOD that they did not have capacity to bid but no-one indicated that the specification was unclear in the clarification. The contract was not awarded to the incumbent.  |
| **MS 907** | NEWHyde Housing | Contract Management | A Mystery Shopper raised concerns about Hyde Housing often paying invoices late over a period of several years. In addition, the Mystery Shopper was concerned that their company had suddenly lost contracts with Hyde Housing. The Mystery Shopper subsequently claimed for late interest payments on invoices dating back several years and was seeking assistance in recovering these costs.   | The issue of outstanding interest had already been settled in court in Hyde Housing’s favour so the team was unable to investigate. Hyde Housing also advised that the supplier had been informed of the re-tender and were offered support both pre and post award. Hyde Housing have confirmed that their payment practices are in line with the requirements of the Public Contracts Regulations 2015, their standard payment terms are 30 days and they are on course to meet the requirements for publishing payment performance on their website.  |
| **MS 914** | NEWImperial College Healthcare NHS Trust | Procurement Process | A Mystery Shopper believed they had been excluded from a procurement due to a lack of staffing resources to deliver the contract.  | Upon reviewing the tender submission and feedback provided it appeared the bidder had not fully answered all of the questions. The authority confirmed what additional information would have been required to provide assurance that the supplier could deliver the requirement. As a result, the enquirer understood how to provide a stronger bid in the future. |
| **MS 893** | NEWHome Office | Procurement Process  | A supplier contacted the team to highlight a Home Office tender where Security Clearance was a pass/fail requirement and that use of subcontractors was specifically precluded. | The Home Office responded quickly and explained that these requirements were due to tight timescales. The team reminded the Home Office that using security clearance as an upfront requirement was not advised. [https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/28502/ISN\_201003\_UK\_NSV\_GovernmentContractingPolicy](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/28502/ISN_201003_UK_NSV_GovernmentContractingPolicy.pdf) and that the use of subcontractors would allow small businesses the opportunity to participate in government contracts. The Home Office has accepted these recommendations and will share these lessons learnt across the Commercial Directorate and the Technical Delivery Directorates to support better planning. |
| **MS 799** | NEWDefence Science and Technology Laboratory (DSTL) | Procurement Strategy | A supplier was concerned that a DSTL framework included a requirement that no bidder could sub-contract more than 25% of the requirement. The supplier viewed this as a barrier to small business participation | DSTL commented that this was in place to avoid “fee on fee”, where a supplier charges more in order to feed through the supply chain. The team requested that DSTL look at what other steps could be taken to avoid fee on fee and to canvass the views of suppliers on this requirement. DSTL commented that suppliers have been positive and they have reviewed this case and can find no evidence to support the claim that the approach adopted by DSTL is detrimental to SMEs. |
| **MS 933** | NEW Surrey and Sussex Police  | Technology Systems | A Mystery Shopper raised a concern that they had been excluded from participating in a procurement due to a late electronic bid submission. They had attempted to submit their bid shortly before the deadline but had been prompted to download an Active x module. The enquirer was also concerned that they had not been alerted to a change in the procurement strategy.   | We reviewed the advice provided to all bidders on the use of the system and screenshots of the system. The advice provided clearly described the purpose of the optional Active x modules which are available as optional add-on tools to support bidders in uploading multiple documents. Installation of the module was therefore not required in order to submit their bid. Additionally suppliers were advised several times to ensure that they allowed sufficient time to upload their bids on the system and in light of this, we agreed that the authority should have refused to accept this bid. We did, however, recommend that in future they tighten up on informing potential suppliers, with whom they have had early dialogue, of any changes in procurement strategy. The authority have accepted this recommendation.  |
| **MS 875** | NEWMultiquote  | Technology/ Systems | A Mystery Shopper experienced difficulty in registering on Multiquote in order to bid for opportunities to supply the NHS. | Multiquote is a system that is used by contracting authorities to advertise opportunities above the threshold for publication and also as a supplier registration system. The Multiquote help desk offered to resolve the supplier's difficulties directly. Some basic supplier information is required to enable suppliers to bid for these opportunities. One of these requirements was previous experience of supplying the NHS. The team felt this was an unnecessary barrier to potential new entrants or suppliers in the private healthcare market and Multiquote have agreed to remove this requirement. They also committed to ensure that suppliers are given free access to any opportunities that are also advertised on Contracts Finder. |
| **MS 838** | NEWMinistry of Defence (MOD) | Procurement Process | A supplier advised the team that they had not won a contract with the MOD that they had previously been the incumbent for. The supplier had not had regular contract management meetings and was unsure of any issues affecting their bid that may have influenced the decision. | The MOD responded quickly to the issues raised and offered to debrief the supplier about the fact that the requirement had grown in scope from the previous contract. MOD and the supplier together had agreed to reduce the frequency of contract management meetings. MOD advised that it had previously offered to meet with the supplier but this offer had not been taken up.  |
| **MS 925** | NEWScape Group  | Procurement Strategy | Two Mystery Shoppers raised concerns about Scape's Built Environment Lotting strategy which envisioned that a single strategic supplier would likely be appointed.  | Scape provided their rationale for the lotting strategy and agreed to include a paragraph in the Contract Notice providing the headline reasons for their decision not to subdivide the opportunity into lots in accordance with Regulation 46 (2) of the Public Contracts Regulations 2015. Scape have confirmed that a copy of their report justifying the lotting strategy would be available upon request. The team also queried their proposed minimum turnover cap of £125m. This was found to be in accordance with Regulation 58 (9) which confirms that an authority may introduce a minimum yearly turnover cap that should not exceed “twice the estimated contract value” (in this case based on the lower value of £250m over 4 years) and Scape confirmed that it is not the only financial criteria that will be assessed. |
| **MS 782** | Crown Commercial Service (CCS) | Procurement process | A supplier experienced delay in CCS approving its novation from an LLP to a Ltd company. | CCS and Mystery Shopper reviewed CCS processes for novation. Mystery Shopper recommended that approval could be delegated to reduce time taken. CCS accepted this recommendation. |
| **MS 929** | East and North Hertfordshire NHS Trust | Procurement Process | A Mystery Shopper raised concerns about selection stage questions in an Invitation to Quote for East & North Hertfordshire NHS Trust who were using the Crown Commercial Service workforce management framework agreement. | The Trust responded very quickly and agreed to review the questions. Subsequently, the Trust offered to remove the questions and issued updated evaluation criteria to all suppliers. |