

| <b>DOCUMENT CONTROL PAGE</b> |  |
|------------------------------|--|
| <b>Title</b>                 | Title: Procurement of Goods and Services Policy<br>Version:<br>Reference Number:   |
| <b>Supersedes</b>            | Supersedes:<br>Changes:  |
| <b>Minor Amendment</b>       | Date 01/10/18<br><br>Notified To Group Procurement Director<br>Date 01/10/18<br><br>Summary of amendments – Procurement Policy updated to reflect new OJEU procurement thresholds as of 1/1/18 |
| <b>Author</b>                | Originated / Modified By: Ross Palmer<br><br>Designation: Interim Head of Purchasing   |
| <b>Ratification</b>          | Ratified by: Simon Walsh, Procurement Director and Adrian Roberts, Group Chief Finance Officer<br><br>Date of Ratification: 01/10/18   |
| <b>Application</b>           | All Staff  |
| <b>Circulation</b>           | Issue Date: 01/10/2018<br><br>Circulated by: Simon Walsh<br><br>Dissemination and Implementation: Senior Management Team and Purchasing Staff  |
| <b>Review</b>                | Review Date: 01/10/2020<br>Responsibility of: Simon Walsh  |
| Date placed on the Intranet: | Please enter your EqIA Registration Number here:<br>76/17R   |

| Section | Contents  | Page |
|---------|---|------|
| 1       | Introduction                                    |      |
| 2       | Purpose   |      |
| 3       | Roles and Responsibilities                      |      |
| 4       | Detail of Procedural Documents                  |      |
|         | Equality Impact Assessment                      |      |
|         | Consultation, Approval and Ratification Process |      |
|         | Dissemination and Implementation                |      |
|         | Monitoring Compliance of Procedural Documents   |      |
|         | References and Bibliography                     |      |
|         | Standards and Key Performance Indicators        |      |
|         | Associated Trust Documents / Useful contacts    |      |
|         | Appendices                                      |      |

## 1. Introduction

The Trust's Policy is to seek to maximise value for money in the procurement of goods and services whilst ensuring that operational requirements are fulfilled and statutory obligations met.

## 2. Purpose

The Policy is a part of Trust Standing Orders / Standing Financial Instructions which themselves are part of the Constitution and Terms of Authorisation of the Foundation trust along with such directions given by the Independent Regulator.

This Document states the key rules and process with respect to the above whilst assisting Trust Officers to achieve compliance.

## 3. Roles and Responsibilities

All Trust Officers have a duty to comply with the provisions of this Policy.

For the purposes of this Policy 'Trust Procurement' will be defined as the Trust's Senior Officer with responsibility for Procurement or his / her delegated Deputy as evidenced in the Procurement Department Operational Procedures Manual.

#### 4. Detail of Procedural Document.

### QUOTATIONS AND TENDERS

Trust Officers will as a matter of course seek to use NHS or other Public Body Contracts. The use of these Contracts negates the need for some or all of the Trust Quotation and Tender Procedures.

In cases where NHS or other Public Body Contracts are either not available or inappropriate for use the following rules by value apply. All values are for the total procurement value over the life of the goods / services:

**Up to £9,999.99 incl. VAT at least one of the following is required:**

1. Single or competitive formal Trust quotation
2. Supplier quotation verified by Trust Procurement
3. Confirmed price either from a published Catalogue or having been agreed with the proposed supplier

**£10,000 to £49,999.99 incl. VAT the following is required:**

Minimum of 3 Formal Quotations – these being issued by and returned to the Procurement Team (or nominated officers in Informatics or Estates as appropriate) utilising the Trust Quotation Form and appropriate NHS Terms and Conditions

**Over £50,000 incl. VAT the following is required:**

Minimum of 3 Formal Tenders issued and received in accordance with Trust Policy as detailed in 5 and 6 below

**It should be noted that;**

Both quotations and tenders are formal requests from the Trust to potential suppliers to provide prices/costs against a defined procurement.

Quotations will usually comprise a single document. The use of quotations provided by potential suppliers to satisfy the requirement for 3 Quotations will be at the discretion of the Procurement Department. This discretion will be exercised based upon the knowledge of the potential supplier and proposed procurement.

Tenders representing a greater value and potentially more complicated procurements will comprise a range of standard documentation as advised by the Department of Health and Cabinet Office.

In cases where the Trust, by prior agreement, undertakes procurement on behalf of another Public Body the Trust's Statutory Framework will apply – all parties having agreed and documented this in advance.

Mini and further competitions undertaken within existing Frameworks can either be undertaken by the Trust or by the Framework awarding body.

**WAIVING ALL OR PART OF THE COMPETITION REQUIREMENTS**

All Trust Officers should seek, wherever possible, to satisfy the requirements for competition as detailed in 2 above.

In exceptional cases where this is not deemed possible, Trust Officers may seek the approval of the Trust to waive these requirements. All proposed Waivers will be requested by means of the attached Form – Appendix A.

The following approval process for the waiving of competition requirements applies:

- Trust Procurement will consider all requests and review based upon both the information presented and appropriate research.
- The Trust Waiver approval procedures apply including the provision for Waivers below £100k in value to be approved by a Procurement Department Senior Manager

Waiving of tender requirements may be considered in the following circumstances:

- I. Where goods or services are only available from one or two sources
- II. Where genuine and unforeseen urgency exists that precludes compliance to the process as identified in 2 above.
- III. Where it is in the commercial and/or operational interest of the Trust
- IV. Where there is clear benefit to be gained from maintaining continuity with an earlier procurement and with the benefits of that continuity outweighing any potential financial advantage which could be gained by competitive tendering;

Waiver forms require authorisation in line with the Trust’s Scheme of Delegation. This is set out in the table below:

| <b>Financial Limit (including VAT)</b>   | <b>Waiver Authorised by</b>                      |
|--|--|
| £10,000 to £99,999.99<br>8c and/or designated Head of Purchasing/Senior Purchasing Manager | Deputy Procurement Directors/Heads of Purchasing |
| £100,000 to £249,999.99  | Procurement Director                             |
| £250,000 to £499,999.99  | Executive Director of Finance                    |
| Over £500,000  | Board of Directors                               |

It should be noted that European Procurement Law applies at all times and in particular to proposed procurements in excess of the financial threshold appertaining at the time (£181,302 in total value excluding VAT as from 1<sup>st</sup> January 2018).

European Procurement Law cannot be waived and the Trust Procurement will advise Budget holders as to how compliance can be achieved.

It should be noted that procurements estimated to be below limits set out as above for which formal tendering procedures are not used which subsequently prove to have a value above such limits shall be reported to the appropriate Trust Senior Officer.

## **IDENTIFYING POTENTIAL BIDDERS**

Trust Procurement will support Budget holders in sourcing and identifying potential suppliers. Sources of potential suppliers will include:

- NHS or other Public Body contractors
- Respondents to Notices placed in the Official Journal of the European Union
- Respondents to Notices placed in appropriate Journals
- Those advised by Trust Officers based upon their operational and technical knowledge

In accordance with Department of Health and Cabinet Office, a pre-selection process will usually be undertaken including, where appropriate, indicative costing methodologies.

## **TENDERING PROCEDURE**

All Tenders are issued and received electronically via the Trust agreed provider.

If the designated officers are of the opinion that the tenders received are not strictly competitive (e.g. due to insufficiency in numbers or due to alterations on the tender), then the approval of the Executive Director of Finance is required.

Where only one tender is sought or received, the Executive Director of Finance shall (in conjunction with the Trust Procurement/Property & Estates/Informatics Department) review the tender to ensure that the price to be paid is fair and that the Trust will be receiving value for money.

Late tenders will only be considered where there are exceptional circumstances:

- Tenders received post submission deadline but prior to the opening of the other tenders may be considered after the designated officers have concluded that the delay was no fault of the tenderer.
- Only in the most exceptional circumstances will a tender be considered which is received after the opening of the tenders and only then if the tenders that have been duly opened have not been accessed via the Tender Portal or if the process of evaluation has not started.

The Tender Portal will require the Trust's authorised officers to approve the opening of Tenders received past the Tender Return date – until this is agreed they will be stored securely online.

## **CRITERIA FOR AWARD OF BUSINESS**

The Tender Document will normally state that the award is to be based on the most economically advantageous bid. This will normally include full life cycle costs.

Contract Award criteria are agreed by Trust Officers as part of the procurement process. In projects of significant value/risk this will include Budget holders; Finance staff and Procurement officers along with any other appropriate Trust Officers.

## **PRE OFFER AND POST TENDER BIDDER ENGAGEMENT**

The procurement process must allow sufficient time for pre-offer (tender) engagement with potential suppliers including the application of indicative pricing methodologies. These will be conducted in accordance with Department of Health / Cabinet Office guidance.

Post tender negotiation/pre contract negotiation is not permitted with the OJEU tendering process. In exceptional cases at the discretion of Trust Procurement it may be undertaken for below OJEU threshold tendering exercises.

Post tender clarification is permissible where it is deemed reasonable to clarify aspects of a tender without fundamentally changing or renegotiating the contents. These clarifications will be conducted in accordance with Department of Health / Office of Government Commerce Guidance.

Trust Procurement Policy applies to all activity within this remit albeit that the European Union value threshold for works differs from Goods and Services (£4,551,413 excluding VAT as at 1<sup>st</sup> January, 2018)

The Trust will comply with Department of Health and other Public Body Guidance including the Independent Regulator of NHS Foundation Trusts.

## FORMAL AWARD OF BUSINESS

Provided all of the above conditions and circumstances set out above have been fully complied with, formal authorisation and award of a contract may be agreed under the authorisation limits defined in Section 3 of the Trust's Scheme of Delegation. In the case of authorisation by the Board of Directors, this shall be recorded in their minutes.

Award of business after a formal further/mini competition will be subject to the same authorisation limits as above.

## MATERIALS AND INVENTORY MANAGEMENT (MIM)

In clinical areas where a MIM service is provided the Procurement staff in conjunction with budget holders will:

- Discuss; agree and formally sign off product range/stock levels
- Requisition;order;check and receipt for all goods
- Undertake regular 13 week reviews of the above
- Maintain all appropriate inventory records
- Undertake and support regular stocktakes
- Support regular audits by Internal Audit colleagues
- Manage new product requests

## Equality Impact Assessment.

The Trust is committed to promoting Equality, Diversity and Human Rights in all areas of its activities.

It is important to address, through consultation, the diverse needs of our community, patients, their carers and our staff. This will be achieved by working to the values and principles set out in the Trust's Equality, Diversity and Human Rights Strategic Framework.

To enable the Trust to meet its legislative duties and regulatory guidance, all new and revised procedural documents, services and functions are to undertake an equalities impact assessment to ensure that everyone has equality of access, opportunity and outcomes regarding the activities. Contact the Service Equality Team (SET) on **Ext 66897** for support to complete an initial assessment. Upon completion of the assessment, SET will assign a unique EqIA Registration Number

The Trust undertakes Equality Impact Assessments to ensure that its activities do not discriminate on the grounds of:

- |                    |                    |
|--------------------|--------------------|
| Religion or belief | Age                |
| Disability         | Race or ethnicity  |
| Sex or gender      | Sexual orientation |
| Human Rights       | Socio economic     |

Before any committee, group or forum validate a policy or procedural document an EqlA Registration Number will be required.

| <b>Equality Impact Assessment</b>  |          |
|--|----------|
| Please record the decision whether the policy, service change or other key decision was assessed as relevant to the equality duty to: <ul style="list-style-type: none"> <li>• Eliminate discrimination and eliminate harassment</li> <li>• Advance equality of opportunity</li> <li>• Advance good relations and attitudes between people</li> </ul>          |          |
| Not relevant   | Relevant |
| <i>This policy has been equality impact assessed by the author in conjunction with the Service Equality Team using the Trust's Equality Impact Assessment (EqIA) Framework. The EqIA score fell into low priority (0-9); no significant issues in relation to equality, diversity, gender, colour, race or religion being identified as raising a concern.</i> |          |
| Please enter the EqIA registration number: 52/16   |          |

### Consultation, Approval and Ratification Process

The development of this policy has been overseen and approved by the Group Chief Finance Officer. Any further refinements and ratification, post-merger, will be progressed by the aforementioned Executive Director through the relevant committee and/or group.

## Dissemination and Implementation

### Dissemination

Documents will be circulated to Procurement teams, MCS and Leadership teams in Hospital Groups.

### Implementation of Procedural Documents

Included with the Trust local induction.

### Monitoring Compliance of Group Procurement of Goods and Services Policy

Compliance monitoring via audit committees for waivers, purchasing operational procurement manual and over £10k requisition approvals.

### Process for Monitoring Compliance and Effectiveness

The Procurement Director is responsible for monitoring compliance with the Group Procurement of Goods and Services Policy at Division and Corporate Level.

This will be completed on a 2 year basis and reported to the Audit Committee

### The following will be monitored for compliance:

- Via Internal Audit review and Procurement Management arrangements

### Standards and Key Performance Indicators 'KPIs'

This policy is monitored via waiver reports, monthly audit committee meetings, ongoing over £10k reports and tender/mini framework reports.

## References and Bibliography

European Union. 2018. *Public contracts in the EU – rules and guidelines - EUROPA | European Union*. [ONLINE] Available at: [https://europa.eu/european-union/business/public-contracts\\_en](https://europa.eu/european-union/business/public-contracts_en). [Accessed 28 September 2018].

NHS Counter Fraud Authority. 2018. *NHS Counter Fraud Authority | Tackling fraud across the NHS and wider health group*. [ONLINE] Available at: <https://cfa.nhs.uk/>. [Accessed 28 September 2018].

**Associated Trust Documents**

N/A

**Appendices**

N/A