

Partners Procurement Services

Procurement Policy

Authorised by: PPS Steering Board

Date of Issue: September 2022

Document Author: Mick Corti - Director

Date of Review: September 2023

VERSION CONTROL SCHEDULE

Version Number	Issue Date	Revisions from previous issue
DRAFT v0.1	July 2017	First publication
1.0	Aug 2017	Approved at PPS board
2.0	Feb 2018	Modern Slavery Act 2015 added
2.1	Mar 2018	Drafting Notes removed
3.0	April 2019	Recommendations of MEH LCFS report incorporated.
4.0	Sept 2022	Change regarding EU Regulations and Social Value PPN's

CONTENTS

1 Purpose

2 Governance

- 2.1 Scope and Role of Procurement
- 2.2 Responsibilities
- 2.3 Legal Framework
- 2.4 Governance & Audit

3 Working with Suppliers

- 3.1 Value for Money
- 3.2 Competition
- 3.3 Rules of Engagement

4 Procurement Processes

- 4.1 Procurement Thresholds
- 4.2 Contracts and Purchase Orders
- 4.3 Evaluation Criteria
- 4.4 Contract Approval
- 4.5 NHS Terms & Conditions
- 4.6 Procurement Procedures
- 4.7 FOI & Confidentiality

5 Key Themes

- 5.1 FOM
- 5.2 NHSI Model Hospital and Procurement Metrics
- 5.3 Scan 4 Safety
- 5.4 Ecommerce/Peppol

1. PURPOSE

It is the purpose of this Policy to set out Partners Procurement Services' (PPS) standards for procurement on behalf of the member organisations in order to ensure compliance with regulatory and Trust requirements, whilst allowing the organisation to achieve its objectives and deliver value for money.

This Policy is to be read in conjunction with the appropriate Trust Standing Orders (SOs) and Standing Financial Instructions (SFIs), which set out the governing principles for public procurement.

2. GOVERNANCE

2.1 Scope and Role of Procurement

This Policy applies to all procurement activity undertaken by NHS staff and the term 'Procurement' is to embrace the complete process from sourcing to taking delivery and payment of all works, goods and services required.

Part of the role of PPS is to act as a centre of excellence and expertise for all procurement and supply chain related issues within its members. Its services include:

- the provision of professional, qualified procurement expertise, advice and services; strategic procurement advice;
- pro-active management and development of the supplier base, identifying and managing any supply risks or value add opportunities;
- ensuring that value for money is achieved
- supporting sustainable policies through procurement processes
- determining requirements and establishing specifications in collaboration with end users; conducting market engagement and research;
- support member trusts in managing supplier relationships, including responding to complaints against suppliers; managing commercial relationships;
- managing the award of contracts;
- supporting member trusts in contract management;
- establishing business continuity planning as an integral part of the procurement process;
- measuring and reporting on procurement performance (including the Carter Metrics and 'model hospital');
- encouraging participation of users/feedback into relevant advisory groups provision of an effective supply chain management service;
- provision of procurement expertise and support for discretionary capital spend



2.2 Responsibilities

2.2.1 Director of Procurement

The Policy is subject to regular review and has been endorsed by the Director, PPS.

2.2.2 Procurement Services' Staff

All members of staff working in PPS are responsible for ensuring compliance with the Procurement Policy and associated procedures. They will also ensure that they meet any specific requirements as set out in the relevant Trust SOs, SFIs and give due regard to developments in statutory requirements (including Find a Tender (FTS), the UK e-notification service), Central Government policy and National Audit Office Guidelines.

All PPS staff shall strive to:

Achieve value for money on behalf of the NHS

Ensure all suppliers compete on a fair and equal basis
Ensure compliance and probity

Ensure that all equipment and consumable products purchased are of appropriate specification for their intended purpose

Ensure that customers are satisfied with the goods and services provided

Ensure key processes and procedures are in place to ensure the right quality, price, source, quantity and timing are achieved

Monitor and manage contract performance to ensure the contract is being delivered as specified

2.2.3 Trust Staff

All NHS staff must adhere to this Procurement Policy and other rules and regulations as set out in the appropriate Trust SFIs and Code of Conduct/Standards of Behaviour Framework.

All NHS staff within member Trusts are required to consult with PPS on complex and major procurements, including all EU procurement exercises.

It is essential that NHS staff taking part in any procurement exercise carried out on their behalf by PPS, fully understand and fulfil their obligations including for example, participation in working/project groups and product evaluation.

2.2.4 Enforcement of Procurement Rules

PPS reserves the right to decline to place orders for any goods or services that have not followed the guidelines stipulated in this Policy, or relevant Trust SOs or SFIs relating to procurement.

2.3 Legal Framework

2.3.1 Legal Obligations

PPS must comply with all its legal obligations and operates within a legal framework for public procurement which includes;

- EU and other international obligations as implemented in UK legislation

- Specific domestic legislation eg., on corrupt gifts or unfair contract terms

- Contract and commercial law in general

- UK/Domestic case law

This is achieved by ensuring our Policy, associated procedures and guidance are consistent with Trust SOs, SFIs, and supplementary guidance. These documents set out the duties and responsibilities of Trusts and embody the legal and governing principles guiding public procurement which are;

- Transparency:** public bodies should ensure that there is openness and clarity on procurement processes and how they are implemented

- Non-discrimination:** public bodies may not discriminate between suppliers or products on grounds of their origin

- Fair treatment;** suppliers should be treated fairly and without discrimination, including in particular equality of opportunity and access to information

- Legality;** public bodies must conform to UK and other legal requirements **Integrity;** there should be no corruption or collusion with suppliers or others

- Effectiveness and efficiency;** public bodies should meet the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement

- Efficiency;** procurement processes should be carried out as cost effectively as possible and secure value for money

Trust Chief Executives are responsible for ensuring their SOs, SFIs are kept up to date, conform to statutory requirements and are consistent with the principles of sustainable development.

2.3.2 The Bribery Act 2010

This act introduced the offences of offering and or receiving a bribe. It also places specific responsibility on organisations to have in place sufficient and adequate procedures to prevent bribery and corruption taking place. Under the Act, Bribery is defined as "Inducement for an action which is illegal unethical or a breach of trust. Inducements can take the form of gifts loans, fees rewards or other privileges". Corruption is broadly defined as the offering or the acceptance of inducements, gifts or favours payments or benefit in kind which may influence the improper action of any person; corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another. To demonstrate the organisation has sufficient and adequate procedures in place and to demonstrate openness and transparency all staff are required to comply with the requirements of Standing Financial Instructions and Standing Orders policy. For a more detailed explanation see the Anti-Fraud and Bribery Policy. Should members of staff wish to report any concerns or allegations they should contact their Local Counter Fraud Specialist and/or Director of Finance.

Personal Gain and Gifts

It is Trust policy that staff involved in procurement activity, or others who may be perceived to be in a position of influencing purchasing decisions, may not solicit or accept contributions of any kind from existing suppliers, those currently bidding for Trust contracts, or suppliers who could conceivably be bidders for future contracts.

Staff must refuse gifts, benefits, hospitality or sponsorship of any kind which might reasonably be seen to compromise their personal judgement or integrity, and to avoid seeking to exert influence to obtain preferential consideration. All such gifts must be returned and hospitality refused.

The confidentiality of information received in the course of employment should be respected and never used for personal gain.

Trust staff may only accept small "desk top" gifts such as diaries, pens and calendars. Records of any other gifts offered, whether or not they were accepted, must be kept. It is a disciplinary matter for Trust staff to accept gifts or consideration as an inducement or reward for:

- Doing or refraining from doing something
- Showing favour or disfavour to any person or organisation

2.4 Governance & Audit

A programme of independent internal and external audits has been established by Trusts to ensure effective internal control arrangements are in place. PPS' activities are subject to audit where relevant, as part of these individual audit programmes where we have acted on behalf of individual and multiple member Trusts. These audits include a review and report on standards of governance with regard to procurement, including aspects of both compliance and effectiveness of processes. Reports are made available to the appropriate Trust Board and Senior Management of PPS.

3 WORKING WITH SUPPLIERS

All suppliers will be dealt with in line with the above governing principles for public procurement. Relationships with suppliers will be constructive but built on a competitive approach that will lead to cost savings and better quality.

3.1 Value for Money

Our aim is the achievement of value for money in all procurement activity. Value for money is defined as the optimum combination of whole-life cost and quality (or fitness for purpose) to meet the user's requirement. Depending on the nature of the contract, whole-life cost may include implementation costs, ongoing operating costs and end-of-life disposal.

Contracts will be awarded on basis of the most economically advantageous tender (MEAT). Awarding contracts on the basis of the most economically advantageous tender provides an opportunity to balance the quality of the goods, services and works being procured against price and to frame specifications in a way which encourages innovation rather than defining the solution.

As part of value for money, due regard will be given to other relevant organisational policies, for example, policies in relation to corporate social responsibility/sustainability.

Wherever practicable, PPS will encourage all Trusts to consider and pursue any additional potential benefits that may be realised by collaborative and/or aggregate procurement decisions across multiple organisations.

3.2 Competition

Competition promotes efficiency and effectiveness in public expenditure. Awarding contracts on the basis of value for money following competition contributes to the competitiveness of suppliers.

Goods, services and works will be acquired by effective competition, including adequate publication of the contract opportunity, unless there are convincing and justifiable reasons to the contrary. The form of competition shall be appropriate to the value and complexity of the goods, services or works to be acquired.

Contracting authorities including NHS Trusts will be required to publish public procurement notices for new procurements to the UK e-notification service, Find a Tender (FTS): <https://www.find-tender.service.gov.uk>. All Contract awards above £25k are mandated to be published in Contracts Finder: <https://www.gov.uk/contracts-finder>. Where the contract is not required to be awarded through these procedures, the degree of advertising will be consistent with UK procurement principles and Public Contract Regulations (2015)

We will seek to keep bidding costs to the minimum necessary for effective competition and remove barriers to participation by, for example small firms, the self-employed and the third sector without discriminating against others. Consistent with legal obligations, any minimum standards required will be proportionate to the contract in question.

3.3 Rules of Engagement

Suppliers to the public sector are expected to maintain high standards of business and professional conduct e.g. in relation to legislative and policy requirements on the environment, equality issues, health and safety, employment and taxation.

Bidders will be required to disclose any recent adverse court or tribunal rulings regarding their business/professional conduct. Where a bidder has failed to comply with relevant legal obligations, consideration will be given to whether the bidder should be excluded from competition on the grounds of unsuitability. In deciding whether or not a bidder should be excluded, account will be taken of the seriousness of the ruling/offence, whether or not the ruling/offence indicates that the bidder is of poor reputation and whether or not the bidder has taken appropriate action to remedy the problem which was the subject of the ruling.

PPS staff are expected to practice high standards of corporate and personal conduct as outlined in Whittington NHS Trust, Standards of Behaviour Framework Policy and the Department of Health

Standards of Business Conduct for NHS Staff. All staff are expected to ensure that they understand these Standards and are not in a position where their private interests and NHS duties may conflict. Any relevant interests must be declared in line with Trust Policy.

PPS has a responsibility to consider issues regarding the Modern Slavery Act 2015, and to take action to confirm that suppliers are committing no offences in relation to this legislation. Higher risk areas of the Trusts supply chains will be identified and suppliers proactively engaged to compliance with the legislation. Individual procurement projects and contracts will include relevant words to support the legislation and rights of audit included to allow compliance checking to be undertaken.

4 PROCUREMENT PROCESSES

4.1 Procurement Thresholds

In establishing the appropriate procurement route, minimum thresholds for quotes and competitive tendering set out in Trust SFIs will be adhered to. These thresholds reflect EU UK Regulatory requirements.

Specifically the practice of “splitting contracts” for the purpose of avoiding thresholds is forbidden and may result in disciplinary action.

4.2 Contracts & Purchase Orders

All supplies of goods and services will be covered by an appropriate contract, purchase order or agreement. Ordering of goods and services by Trusts requires compliance by staff with the following key system controls;

Official orders are to be raised via PPS in respect of all goods and services required by the organisation, except those specifically exempted.

Orders will only be placed in accordance with the appropriate, approved scheme of budgetary delegation.

Trust staff must be able to demonstrate that best value for money has been achieved in the procurement of goods and services.

Specialist procurement advice should be sought from PPS wherever necessary.

4.3 Evaluation Criteria

The evaluation criteria for a procurement activity shall be agreed jointly between PPS, the evaluation group and/or Trust representative. This agreement will be reached prior to the issue of tender or quotation documentation. Any criteria that is mandatory or has a minimum standard shall be clearly identified.

The process for establishing and agreeing scores and weightings for evaluation criteria is set out in procedures.

The NHS adopted PPN 06/20 from 1 April 2022, introducing a mandatory requirement to include a minimum weighting of 10% for Social Value criteria in tenders where appropriate to do so.

Social value should now be explicitly evaluated in all procurements, where the requirements are related and proportionate to the subject-matter of the contract, rather than just 'considered' as currently required under the Public Services (Social Value) Act 2012. Applying social value requirements in procurement can have a significantly positive impact by broadening the benefits that are delivered. Social Value measures are surrounding fighting climate change; Wellbeing, Equal Opportunity, Tackling Economic Inequality and COVID-19 Recovery.

4.4 Contract Approval

Approval of the contract award decision will be obtained in line with Trust Standing Orders and relevant scheme of delegation.

4.5 NHS Terms & Conditions

The NHS Conditions of Contract will form the basis of any contract entered into with suppliers unless otherwise agreed. Copies of current standard terms and conditions are available on the Department of Health website

<https://www.gov.uk/government/publications/nhs-standard-terms-and-conditions-of-contract-for-the-purchase-of-goods-and-supply-of-services>

4.6 Procurement Procedures

All tendering and contract activity shall be undertaken in accordance with detailed Procurement Procedures which will be available to staff on the PPS shared drive. These procedures include instruction for;

- a. Requirements and exceptions to formal competitive tendering Tender processes including post tender discussions
- b. Requirements and exceptions to obtaining quotations Evaluation and scoring methodologies
- c. Approval process for suppliers

These procedures will be subject to review by Senior Management and all staff will receive appropriate training, support and guidance in their use.

Compliance will be monitored in line with Trust audit requirements.

PPS staff should refer to the appropriate Trust SFI for any additional requirements.

4.7 FOI & Confidentiality

PPS will ensure that the provisions of the Freedom of Information Act are adhered to with the timely response to requests in line with the Freedom of Information Policy of the relevant member Trust.

Personally identifiable information will not normally be required in relation to the provision of Procurement Services activities. Where there is a requirement, for example in relation to the provision of healthcare services, such information will be handled as confidential and acquired, stored and processed in line with the relevant member Trust Information Governance Policy, Data Protection & Confidentiality Policy as well as local policies and procedures.

Commercially sensitive contract information such as supplier pricing prior to contract award will be treated as confidential and managed in line with local procurement policies and procedures.

NHS Trust employees are expected to ensure that all confidential information provided to them in the course of service delivery is treated as such.

5 KEY THEMES

The following key themes are worthy of note.

5.1 National Procurement

The procurement landscape nationally is evolving and local procurement teams must stay aligned with the national direction of travel.

The centre led model manifests itself in two primary ways:

- i) The NHS Supply Chain for the sourcing, delivery, and supply of healthcare products in particular. NHSSC sell products at the same price that they buy for; with the costs of the national sourcing and distribution teams and infrastructure being paid for by all Trusts in a contribution netted directly from funding arrangements. In other words, we are paying for NHSSC and so it makes sense to maximise the use of the arrangements.

The model consists of 11 specialist buying functions, known as Category Towers, delivering clinical consumables, capital medical equipment and non-medical products such as food and office solutions. These CTs will be rationalised in November 2022.

The CTs are designed to lead the thinking on category strategies (such as range optimisation and variety reduction) and we will continue to work with them of programmes of work at both Trust and ICS level.

- ii) The Central Commercial Function which is a new (July 2022) central team whose aim is to deliver value across the NHS, by helping to unify the landscape. The function is due to be fully in place by the end of 2022. We expect both best practice guidance and also central reporting requirements to be forthcoming and will of course need to adopt these as appropriate.

5.2 NHSI Model Hospital and Procurement Metrics

<https://model.nhs.uk/>

The model hospital includes metrics on procurement performance and each Trust is required to utilise the information to explore their comparative position to provide a clearer view on improvement opportunities to be pursued. Its main purpose is support a reduction in unwarranted variation.

5.3 National Scan 4 Safety Programme (also known as 'GS1')

<https://www.scan4safety.nhs.uk/>

GS1 standards are used to provide improved patient safety, greater regulatory compliance and to drive operational efficiencies across both front line and back office functions across NHS organisations.

GS1 is a barcoding system similar to systems used in shops by retailers, the introduction of GS1 barcoding standards will help NHS trusts to better identify and match patients, products, and locations by using the same identifiers. The key benefits are full traceability of products, patients, places and events.

Leading to opportunity for improved inventory management, easier product recalls and improved patient tracking.

PPS has already implemented the Genesis system which facilitates scan4safety. It has been implemented across Royal Free London NHS Foundation Trust and Whittington Hospital NHS Trust. North Middlesex Hospital NHS Trust and Moorfields Eye Hospital NHS Foundation Trust will be implemented in the next 12 months.

5.4 eCommerce/PEPPOL adoption

A requirement under EU legislation is the ability to trade electronically via Peppol. Peppol enables the NHS and its suppliers to use standardised connection for eOrdering and eInvoicing. From 18 April 2020 all public sector institutions and authorities in the EU were required by law to receive PEPPOL invoices.

PPS has adopted a P2P platform (PeCOS) which is fully PEPPOL compliant.