

TRUST POLICY FOR THE PROCUREMENT OF GOODS AND SERVICES

July 2013 Version 1.

PROCUREMENT OF GOODS AND SERVICES

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1. BACKGROUND

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.

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

The Policy is a part of Trust Standing Orders/Standing Financial Instructions.

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

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.

2. 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:

<p>Up to £9,999.99 incl. VAT at least one of the following is required:</p> <ol style="list-style-type: none">1. Single or competitive formal Trust quotation2. Supplier quotation verified by Trust Procurement3. Confirmed price either from a published Catalogue or having been agreed with the proposed supplier
<p>£10,000 to £49,999.99 incl. VAT the following is required:</p> <p>Minimum of 3 Formal Quotations – these being issued by and returned to the Procurement Team utilising the Trust Quotation Form and appropriate NHS Terms and Conditions.</p>
<p>Over £50,000 incl. VAT the following is required:</p> <p>Minimum of 3 Formal Tenders issued and received in accordance with Trust Policy as detailed in 5 and 6 below.</p>

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 Office of Government Commerce.

In cases where the Trust, by prior agreement, uses another Public Body to undertake procurement then the Statutory Framework of that Body will apply to the procurement – the Trust having agreed and documented this in advance.

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.

3. 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 Procurement will either approve or decline the request. All waivers must be signed by Director of Finance before being sent to Procurement. If the request is declined full reasons will be given to the Trust Officer and advice given as to how the procurement can be progressed.

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;

A Waiver Request form (Appendix A) should be completed and the reasons should be documented and recorded within this form.

It should be noted that European Procurement Law applies at all times and in particular to proposed procurements in excess of the financial threshold applying at the time (£13,057) in total value excl VAT as from 1st January, 2013).

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 Director of Finance.

4. 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 Office of Government Commerce Guidance, a pre-selection process will usually be undertaken including, where appropriate, indicative costing methodologies

5. TENDERING PROCEDURE

Tender Documents will be issued via the Procurement multiquote electronic system and in one or two

Electronically via the Multiquote System

This involves giving Tenderers electronic access to Tender Documents and their return electronically.

The Trust may also elect to utilise the Electronic Auction option as part of this Method. This involves facilitating an online reverse auction where against an agreed range of products/services tenderers submit prices within a timescale with an expectation that suppliers submitting the lowest prices will achieve the highest score for the pricing elements of the Tender. The Trust may also invite non-price Tender submissions in addition to the Electronic Auction.

Electronic Auctions will be operated in accordance with the protocols of the TM System provider and the Trust Procurement/E-commerce Department.

Method Two - Electronically from an approved Trust Officer e-mail address

This involves the electronic dissemination of the Tender Documents including the Return label and the return of a paper hard copy.

Method two to be used in exceptional circumstances.

In all cases an acknowledgement of receipt will be requested usually by electronic means or e-mail.

Tenders issued electronically as per Method One should be submitted and opened in accordance with the electronic System protocols.

These protocols having been agreed with the system provider and having been approved by the Trust's Internal Audit Service prior to implementation. Mark liase with our to get it signed off.

Tenders issued as per Method Two and Method Three must be returned in accordance with the following requirements:

- i. Addressed to the Executive Director of Finance and submitted in accordance with the notified tender deadline;
- ii. Submitted in a plain sealed package or envelope bearing a pre-printed return address label that also states the tender reference and return date and time (supplied by the Trust) ;

- iii. That tender envelopes/packages shall not bear any names or marks indicating the sender. The use of courier/postal services must not identify the sender on the envelope or on any receipt so required by the deliverer;
- iv. Every tender of goods, materials, services or disposals shall embody the relevant NHS Conditions of Contract, as are applicable;

6. RECEIPT OF TENDERS

Tenders issued and returned under Method Two require the Exec. Director of Finance or their nominated representative to be responsible for the receipt, endorsement and safe custody of the tenders received until the time appointed for opening.

The date and time of the receipt of each tender shall be endorsed on the tender envelope or package by the person receiving the tenders.

Tenders issued and received under Method One will remain within the multiquoteSystem under a password controlled and time locked secure electronic environment.

7. OPENING OF TENDERS

The Trust will as soon as practicable after the deadline time for the submission of the tenders (allowing 24 hours for tenders to be delivered from the post room to the Chief Executives office under Method Two).

They should be opened by two senior officers/managers (from separate departments) of the Trust as designated by the Exec. Director of Finance and not from the originating department. The 'originating' department will be taken to mean the department sponsoring or commissioning the tender.

All Executive Directors will be authorised to open tenders regardless of whether they are from the originating department provided that the other authorised person is not from the originating department. The Trust's Director of Corporate Services Secretary will count as a Director for the purposes of opening tenders.

Every tender received shall be marked with the date of opening and initialised by those present at the opening. In the case of Tenders under Method One a system based procedure applies.

8. REGISTER OF TENDERS

Tenders received from suppliers should be cross-referenced to the list received from the Procurement Departments).

Submissions from suppliers other than those listed must be excluded.

A register shall be maintained, showing for each set of tenders dispatched:

- i. the name of all firms/individuals invited;
- ii. the names of firms/individuals from which tenders have been received;
- iii. the date the tenders were opened;
- iv. the persons present at the opening;
- v. the price shown on each tender;

- vi. a note where price alterations have been made on the tender. If the tender has had so many alterations that it cannot be readily read or understood this should be noted in the register.

Each entry to this register shall be acknowledged by those present.

Incomplete tenders shall be dealt with in the same way as late tenders – see below.

9. ADMISSIBILITY OF TENDERS

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/received, the Executive Director of Finance shall (in conjunction with the Trust Procurement 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 left the custody of the Exec. Director of Finance or their nominated officer or if the process of evaluation has not started.

All late tenders should be kept in the safe custody of the Exec. Director of Finance or nominated officer during the period that the admissibility is considered.

10. 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.

In cases where the EU Thresholds apply, the Award Criteria must be included in either the Notice in the Official Journal of the European Union or in the Tender.

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.

11. 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 / Office of Government Commerce Guidance.

Post tender negotiation/pre contract negotiation is not permitted within 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.

12. 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 the Trust's Scheme of Delegation. In the case of authorisation by the Board of Directors, this shall be recorded in their minutes.