



Department
of Health

Managed Services Case Study

March 2015

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Managed Services Case Study

Developed in partnership with MILLS & REEVE

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1 Introduction

- 1.1 The Department of Health ("DH") has undertaken a project to review and update, as appropriate, the various NHS terms and conditions inherited from the NHS Purchasing and Supply Agency ("**Project**"). As part of stage one of the Project, the DH reviewed over 40 sets of NHS-specific terms and conditions and new terms and conditions and framework agreements have been published for goods and services with associated guidance.
- 1.2 In producing the new terms and conditions for goods and services, the DH challenged traditional thinking and introduced a fresh, user friendly structure and approach which has been welcomed and endorsed by stakeholders and industry reviewers alike. In particular, this work has received positive endorsement from both the Association of British Healthcare Industries (a key trade body for NHS suppliers) and the Health Care Supply Association (the representative and network organisation for all staff involved in NHS procurement). As part of stage two of the Project, the DH is producing further new terms and conditions in response to stakeholder feedback.
- 1.3 There has been strong feedback that a managed services contract is considered a top priority for NHS stakeholders. Industry feedback has, however, indicated that it would be difficult to produce a single managed services contract to cover all relevant categories and usage scenarios and the DH agrees that a more flexible approach is required.
- 1.4 Therefore, rather than produce a standard set of terms and conditions for all managed service contracts, the DH has decided to publish this case study of a managed services project ("**Case Study Project**") undertaken by NHS Blood and Transplant ("**NHSBT**"), which followed best practice and has received positive feedback. This case study project relates to medical diagnostic equipment, which is a common managed service requirement for the NHS.
- 1.5 As part of producing this case study, the DH has taken the key managed service elements of the NHSBT contract and has produced example managed services terms and conditions that NHS stakeholders can use as a starting point to inform their own approach to contracting for managed services. These sample managed services terms and conditions are discussed in more detail at Annex A to this case study.
- 1.6 The background to the Case Study Project, feedback and the key benefits achieved, as outlined below, help to give the context in which the example managed services terms conditions were developed and also illustrate what can be achieved by the managed service approach.

2 Background to the Case Study Project

- 2.1 NHSBT is a Special Health Authority dedicated to saving and improving lives through a wide range of services provided to the NHS.
- 2.2 NHSBT performs a wide range of testing services including the large-scale microbiology screening of blood and tissue donations for microbiological markers of transfusion transmitted infections such as Hepatitis B, Hepatitis C, HIV, Syphilis, Human T cell lymphotropic virus (HTLV) and Cytomegalovirus (CMV). There is also a requirement for smaller scale screening for Malaria and Chagas disease on selected donations.
- 2.3 There were several contracts in place with multiple suppliers for test kits, equipment and operating software, all of which were due to expire in November 2012. A key aim of the

Case Study Project was to bring all the screening requirements into a single integrated managed service contract from an expert supplier including: test kits, equipment, associated consumables, operating software, result management software (middleware or Laboratory Information Management Systems (LIMS)), support and maintenance. Amalgamating these requirements into one managed services contract was considered to have the following key benefits for NHSBT:

1. Streamlining of supply and management via a single contract with the associated cost benefits and resource savings;
2. Reduced integration risk for NHSBT (i.e. the supplier will be responsible for integrating all elements of the services not NHSBT)
3. Fixed budgetary cost based on usage volumes; and
4. Simple upgrading of technology over the life of the contract.

2.4 The period of contract is seven years from December 2012 to December 2019 with an option to extend the contract by an additional three years.

NHSBT's approach to the Case Study Project

3.1 NHSBT took the following approach to the case study project in line with procurement best practice.

- 3.1.1 A Prior Information Notice was issued in August 2011 to inform the market place of NHSBT intention to go out to tender for this requirement in order to provide the market with early notice of this forthcoming requirement.
- 3.1.2 Supplier engagement meetings were undertaken in February, May and June 2012, as part of NHSBT's early market engagement strategy, to ensure there was a common understanding of NHSBT's requirements and procurement strategy.
- 3.1.3 NHSBT also consulted other NHS authorities with experience of large managed service contracts to identify lessons learned and best practice.
- 3.1.4 Whilst it is normal practice to use the standard NHS terms and conditions of contract, none were available which adequately covered the provision of a managed service so NHSBT tasked Mills and Reeve LLP to draft a set of terms and conditions. Suppliers were also consulted on these terms and conditions as part of the early market engagement process.
- 3.1.5 Following the publication of the OJEU contract notice, the Invitation to Tender (ITT) was issued on July 2012, using the Open Procedure under the Public Contracts Regulations 2006, which reflected Cabinet Office best practice recommendations.
- 3.1.6 Suppliers were allowed as many site visits as necessary, which included access to key NHSBT individuals to assist their understanding of the existing ways of working.
- 3.1.7 Prior to the ITT response date, suppliers had the opportunity to present their proposed solutions so that NHSBT could provide some informal feedback on content, terminology, and perceived usefulness/ suitability.
- 3.1.8 The ITT responses were due in September 2012 and a number of Suppliers responded.

- 3.1.9 In order to verify independently the suppliers technical responses a team of experts from NHSBT visited sites where the potential suppliers systems were in routine use. A detailed questionnaire was completed after observing the systems in use and discussions with the users without the suppliers being present.
- 3.1.10 The high level award criteria and their relative weightings for this Case Study Project were:

Quality (i.e. all non-price related criteria)	40%
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Cost	60%
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- 3.1.11 In terms of quality, suppliers were assessed on the basis of their responses to the mandatory requirements in the specification and then evaluated against 16 further specific areas covering operational aspects, including capability and capacity to meet throughput requirements, risk management, partnering and innovation and the implementation of the contract.
- 3.1.12 The contract award recommendation was reviewed and approved by the NHSBT board in November 2012 and all bidders informed of outcome in compliance with the EU public procurement rules.
- 3.1.13 A Contract implementation meeting was undertaken December 2012, which began the implementation process.
- 3.1.14 The Contract has now been successfully implemented.

4 Outcome and key benefits delivered

- 4.1 NHSBT views the key benefits of this managed services contract as being:
- 4.1.1 The contract is based on the forecasted annual testing requirements of approximately 2.0m donations per annum currently, rising to 2.2m donations per annum in 2019/20. The estimated total contract value over the seven year period is circa £40m, representing a saving of circa £18m.
- 4.1.2 Firm fixed pricing was secured for the full contract period.
- 4.1.3 Significant transfer of risk to the supplier was achieved; including a certain amount of savings being underwritten by the supplier.
- 4.1.4 The contract accommodates future developments in the blood supply strategy whilst protecting NHSBT from financial risk.
- 4.1.5 New innovative technologies are capable of being implemented as part of the managed service approach, allowing for further head count savings, together with the development of an integrated testing laboratory information system that will support further improved efficiency in testing.

- 4.1.6 Savings have been used to fund a permanent post to focus on supplier relationship management, as part of the managed service approach with aim of ensuring the highest quality of service delivery and partnership working.
- 4.1.7 Tendering processes are long, resource draining, and expensive for both suppliers and NHSBT. Having a long, yet flexible, managed services contract was a good solution to minimise cost and maximise the effectiveness of resources.

5 Feedback on the Case Study Project

- 5.1 Positive feedback was received in relation to NHSBT's approach to the Case Study Project from bidders and advisers:

"Supplier briefing sessions were extremely useful" and "all NHSBT staff involved were highly professional throughout the process."

(Bio-Rad Laboratories Ltd)

"We (Roche) did find this NHSBT tender a relatively simple and flexible process, thanks to the organisational and communication skills of the NHSBT and the time and effort allotted to true communication between the involved parties within the process"

(Roche Diagnostics Ltd)

"The implementation of the managed service in accordance with the terms and conditions of the agreement is a good example of how a well-run procurement, involving consultation with suppliers throughout the process can deliver positive results for both the NHS and industry"

(Abbott Diagnostics Ltd)

"NHSBT is to be commended on their consultative and open approach to this project. We believe that the early market engagement with bidders helped to ensure a balanced approach to risk. NHSBT has also demonstrated that the open procedure can be successfully used on complex projects if used alongside robust early market engagement. This can be used to help to achieve a lean approach to procurement for both suppliers and bidders."

(Mills & Reeve LLP – advisers to the project)

- 5.2 NHSBT's own reflections on the Case Study Project are:

"A considerable amount of work was done in consultation with key internal stakeholders, other NHS organisations, and potential suppliers to develop an appropriate specification with quality built in and a procurement strategy for contracting a large managed testing service. In the economic climate at the time of tender there was a risk that if a more traditional contracting approach was followed savings may not have been achieved; but this project has allowed NHSBT to develop a partnership approach to delivering strategic high value managed services during a period of significant operational change, which has helped minimise operational risk at the same time as allowing for continual achievement against NHSBTs strategic objectives by the effective deployment of private sector expertise and leading edge technologies."

(Dan Kirkbride – National Contracts Manager and NHSBT procurement lead on the Case Study Project)

6 Concluding DH thoughts on the Case Study Project

- 6.1 The DH trusts that the sample managed service terms and conditions based on this Case Study Project will prove a helpful starting point for other NHS organisations considering procuring managed services. It is the DH's expectation that the managed service specific elements of these sample terms and conditions will be refined for other specific projects as part of the project specific early market engagement with the relevant supplier community, as is procurement best practice for complex projects of this nature.
- 6.2 If you have any questions on this case study or the sample managed service terms and conditions, then please contact one of the named contacts below.

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Annex A

Sample NHS Terms and Conditions for Managed Services based on the Case Study Project can be found on the same gov.uk page as this Case Study

When using these sample terms and conditions, the following important points should be noted:

1. This is a sample set of terms and conditions for managed services contracts based on the Case Study Project, but without any of the project specific details such as the specification, pricing approach, contract term etc. This will make the sample terms and conditions easier to adapt for other projects. As set out in the DH's concluding thoughts to the case study, it is the DH's expectation that the key managed service specific elements of these sample terms and conditions may need to be refined for other projects as part of the early market engagement process with the relevant supplier community.
2. The key managed service specific terms and conditions are to be found at Clauses 1 to 3 of Schedule 2 of the sample terms and conditions. The remainder of the terms and conditions are based on the NHS Terms and Conditions for the Provision of Services (August 2014), but with appropriate modifications made to reflect the managed services contracting approach. For example, the warranties at Clause 10 of Schedule 2 have been amended to reflect the managed service approach for the Case Study Project.
3. NHSBT has taken the view that VAT is reclaimable in connection with the Case Study Project in accordance with the HMRC rules relating to contracted out services. However, specific tax advice should always be sought in relation to any managed services projects in connection with the tax implications of the specific project scope and approach. These sample managed service terms and conditions have not been drafted so as to achieve any particular tax (including, without limitation, VAT) treatment. It should also be noted that tax law and policy is constantly developing and so up-to-date advice for each specific project should be obtained.
4. These sample terms and conditions assume that TUPE will not apply upon the commencement of the Services, as was the position with the Case Study Project. If TUPE will apply at the commencement of the services, appropriate drafting will need to be incorporated from the NHS Terms and Conditions for the Provision of Services (Contract Version).(August 2014) (see Schedule 7)