



Department
of Health



Procurement Transparency Guidance

MARCH 2017

Title: Procurement Transparency Guidance
Author: Sandra Barrow Finance & Group Operations Commercial Division
Document Purpose: Policy
Publication date: March 2017
Target audience: NHS Foundation Trusts and NHS trusts
Contact details: Amjad Kazmi Commercial Policy Advisor Commercial Division Finance and Group Operations Department of Health, Skipton House, London SE1 6LH E: amjad.kazmi@dh.gsi.gov.uk T: 020 797 23754 M: 07917 236667

You may re-use the text of this document (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/

© Crown copyright

Published to gov.uk, in PDF format only.

www.gov.uk/dh

Contents

Contents	3
1. Applicability	4
2. Key Changes	4
3. Context	5
4. Sharing expenditure data	5
5. Opening up Public Procurement	7
6. Being transparent about expenditure	10
7. Performance reporting	10
8. Implementation	11
9. References	13

Applicability

This document updates the March 2015 Procurement Transparency Guidance, which itself followed on from *Better Procurement Better Value Better Care* ^[1] (DH August 2013). The Guidance included a number of commitments around the transparency of procurement information and was brought into effect under the 2014/15 NHS Standard Contract.

This document provides guidance to all NHS Provider organisations. The NHS Standard Contract from 2014/15 and subsequent iterations includes a requirement that *'the Provider must comply with Transparency Guidance if and when applicable'*^[2]. Under the NHS Standard Contract, the guidance and requirements contained within this document is applicable to all NHS Foundation Trusts and NHS trusts.

Although this document is not applicable to independent sector Providers of NHS healthcare, such Providers may wish to consider the benefits of adopting the guidance in this document.

Key Changes

This document follows the same structure and format as the March 2015 Procurement Transparency Guidance and contains 10 “actions for NHS providers”. The key changes from the actions included in the March 2015 version are:

Action 1 now additionally includes a requirement on providers to supply monthly Purchase Order data to NHS Improvement (NHSI) to support the national purchase price benchmarking and index tool and negates the need for Action 2 in the March 2015 version.

Action 3 which now relates to routinely submitting orthopaedic data has been extended to incorporate other specialities where registers exist.

Action 8 which now relates to contract award notices, states contracts over £25,000 are to be published and removes the default to higher threshold determined by standing orders.

Context

The wider Government agenda on transparency aims to enable the public to hold public bodies and politicians to account. The requirement, in relation to procurement transparency, is to ensure that:

- expenditure data is shared to identify savings opportunities.
- Small and medium sized enterprises are sighted on public sector business opportunities, both future procurement plans and current opportunities to tender for new contracts;
- there is transparency about how public money is being spent;

Sharing expenditure data

The sharing of procurement expenditure data between NHS Providers will enable the comparison of prices, leading to increased competition amongst the supplier base and the prioritisation of specific expenditure categories for procurement action.

Better Procurement Better Value Better Care set out a commitment to establish a national Spend Analytics and Price Benchmarking Service, now named the Purchase Price Index and Benchmarking (PPIB) service. The NHS eProcurement strategy^[3] which was published in May 2014 set out how this commitment will be taken forward. In essence all NHS Providers will be required to submit procurement transaction data to the national service to support savings generated through price comparisons, to facilitate collaboration amongst providers and to benchmark providers performance and savings opportunities. Work is progressing to develop the national service, which became operational September 2016.

The service will return spend analysis reports to each NHS Provider detailing benchmarked price variations against peer group NHS Providers and highlighting priority areas of opportunity.

In the meantime, NHS Providers are required to:

- 1) continue to submit purchase order data and take preparatory steps to enable the submission of accounts payable, catalogue and contract data to the national service Provider. Work has been undertaken to develop and test accounts payable data extraction and interpretation. Once complete, further guidance on what to do and how will be issued to all NHS Providers. From July 2016 providers have been required to submit monthly Purchase Order data to support the national PPIB service. This is expected to be extended to other data during 2017/18.
- 2) continue to refrain from entering into any non-disclosure or confidentiality agreements with any supplier that may have the effect of restricting the sharing of procurement expenditure data, including prices, with the national PPIB service. It is recommended that NHS Providers should submit evidence to their Audit committee that steps have been taken to comply with this requirement.

Orthopaedic joint replacements

The National Joint Registry (NJR) was set up to monitor the performance of orthopaedic implants for joint replacement. It collects and manages a range of clinical data relating to approximately 190,000 patients each year, including details of specific components implanted into each patient.

A pilot project was undertaken in 2013, where commercial pricing information was supplied to the NJR, bringing clinical and commercial data together. The resulting analysis enabled participating NHS Providers to review, by surgeon, the range of orthopaedic implants used and prices paid, set against benchmark information detailing lower quartile, upper quartile and average prices paid.

The NJR have extended this analysis and reporting service and issued guidance, including training and a help desk service, to all NHS Providers of orthopaedic joint

replacement services, enabling clinicians and procurement teams to make informed decisions about the selection and pricing of orthopaedic implants.

In addition; where a registry exists for a specific speciality each provider must ensure that they provide appropriate and timely submission of relevant activity data in the format identified by the registry, relating to the clinical procedure. This information is an important requirement to inform the identification of quality outcomes, use of commodities and provide transparency around pricing to support the identification and delivery of improved patient quality outcomes, efficiency and productivity.

NHS Providers of joint replacement services are required to continue to:

- 3) routinely submit their orthopaedic implant pricing information to the NJR and to other registries as appropriate.

Opening up Public Procurement

Small businesses may find it difficult to do business with the public sector, including NHS Providers, and are often deterred by excessive burdens imposed through the procurement process and lack of visibility of opportunities.

Part 4 of the new Public Contracts Regulations 2015 (PCR 2015) ^[4], introduced reforms to tackle these issues.

These reforms make public procurement more accessible to SMEs and will help ensure a simpler and more consistent approach to procurement across all public sector authorities. The government undertook wide consultation and engagement with public bodies, small businesses and trade bodies in response to Lord Young's recommendations to Government in his report on 'Growing Your Business' (May 2013) ^[5].

These reforms improve the way public bodies administer Pre-Qualification with the new standard Selection Questionnaires (SQs), the accessibility of contract opportunities and prompt payment of suppliers.

The reforms provide a valuable opportunity for NHS Providers to achieve increased quality and value for money in the procurement of goods and services, in particular by making procurement opportunities more accessible to smaller businesses and voluntary organisations.

Exemptions

The procurement of Healthcare Services for the purpose of the NHS within the meaning and scope of the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 are exempt from these reforms.

The key applicable reforms contained in PCR 2015 are:

Abolition of a pre-qualification stage for procurements below the EU thresholds, and a requirement to comply with the standard Selection Questionnaire issued by Crown Commercial Services for above EU threshold procurements including use of the core set of questions ^[6].

NHS Providers may not include a pre-qualification stage in any procurement where the value of the procurement is below the EU threshold for goods and services, currently €135,000 (£106,047) for NHS trusts and €209,000 (£164,176) for NHS Foundation Trusts. In practical terms, this means that SQs used as part of a pre-qualification stage are not permitted. However NHS Providers may ask questions relating to a potential supplier provided that the questions are proportionate and relevant to the subject matter of the procurement.

A requirement for contracting authorities to insert provisions in all public contracts to ensure prompt payment through the supply chain. ^[7]

NHS Providers must ensure that all contracts contain suitable provisions stating that valid undisputed invoices will be paid by the contracting authority within 30 days. Contracts must also contain a condition requiring contractors to include similar provisions in their contracts down the supply chain.

In addition, NHS Providers must publish statistics showing the proportion of invoices paid in accordance with these obligations; the total amount of any liability to pay interest which arose during the year; and the total amount of interest actually paid in discharge of any such liability. This figure must be published annually in relation to the previous 12-month period at the end of the NHS Provider's accounting year.

The requirement to advertise public sector opportunities in one place (Contracts Finder), and to publish award notices for contracts and call-offs from framework agreements ^[8].

NHS Providers must ensure that when they advertise a new procurement opportunity above certain thresholds, the advert is placed on the national Contracts Finder portal ^[9].

This portal must be used in addition to, or instead of any local or regional portals currently being used. The threshold is £25,000 for both NHS trusts and NHS Foundation Trusts. Where existing standing orders have a higher value for advertising opportunities, the higher value applies rather than £25,000.

NHS Providers are required to:

- 4) abolish the use of a pre-qualification stage for procurements below the EU threshold.
- 5) have regard to the guidance on qualitative selection issued by Crown Commercial Services for above threshold procurements and use the core set of questions as appropriate.
- 6) include provisions in all contracts to ensure prompt payment through the supply chain and prepare to publish statistics showing the proportion of invoices paid in accordance with these obligations, the total amount of any liability to pay interest which arose and the amount of interest actually paid.

- 7) ensure that all contract opportunities with a contract value over £25,000 are advertised on Contracts Finder, unless standing orders are in place for a higher threshold.

Being transparent about expenditure

To ensure that small businesses see the benefit of these reforms, NHS Providers need to report on their contracts awarded and their spend with small businesses (SMEs) and voluntary community and social enterprises (VCSEs).

Once a contract has been awarded NHS Providers are required to publish the details on Contracts Finder and include an indication of whether the contractors are SMEs or VCSEs.

NHS Providers are required to:

- 8) ensure that all contract award notices over £25,000 are published on Contracts Finder and an indication if the contractor is an SME or VCSE.
- 9) publish details of total spend by supplier each month on their websites and take preparatory steps to publish details of any supplier rebates.

Performance reporting

It remains our intention to publish procurement performance to highlight variation across NHS Providers. The Carter Report into Operational Efficiency published in February 2016^[10] recommends the implementation of a Model Hospital dashboard of metrics to determine the operational performance of hospitals. NHS Improvement requires all providers to submit procurement performance data into the Model Hospital Portal from January 2017. The Model Hospital Portal will be the preferred mechanism for publishing to providers their relative performance across a number of key metrics to enable them to put in place activities to improve performance.

The NHS Procurement Dashboard^[11] is a tool developed to improve transparency and understanding of procurement performance, which provides a balanced scorecard and supports internal governance. NHS Providers are required to:

- 10) Continue the use of NHS Procurement Dashboard until it is fully replaced during 2017 by the Model Hospital Portal.

Implementation

Summary of key actions for NHS Provider organisations

- 1) continue to submit purchase order data and take preparatory steps to enable the submission of accounts payable, catalogue and contract data to the national service Provider. Work has been undertaken to develop and test accounts payable data extraction and interpretation. Once complete, further guidance on what to do and how will be issued to all NHS Providers. From July 2016 providers have been required to submit monthly Purchase Order data to support the national Purchase Price Index and Benchmarking service. This is expected to be extended to other data during 2017/18.
- 2) continue to refrain from entering into any non-disclosure or confidentiality agreements with any supplier that may have the effect of restricting the sharing of procurement expenditure data, including prices, with the national Purchase Price Index and Benchmarking service. It is recommended that NHS Providers should submit evidence to their Audit committee that steps have now been taken to comply with this requirement.
- 3) routinely submit their orthopaedic implant pricing information to the NJR and to other registries as appropriate.
- 4) abolish the use of a pre-qualification stage for procurements below the EU threshold.
- 5) have regard to the guidance on qualitative selection issued by Crown Commercial Services for above threshold procurements and use the standardised set of questions as appropriate.
- 6) include provisions in all contracts to ensure prompt payment through the supply chain and prepare to publish statistics showing the proportion of invoices paid

in accordance with these obligations, the total amount of any liability to pay interest which arose and the amount of interest actually paid.

- 7) ensure that all contract opportunities with a contract value over £25,000 are advertised on Contracts Finder, unless standing orders are in place for a higher threshold.
- 8) ensure that all contract award notices over £25,000 are published on Contracts Finder and an indication if the contractor is an SME or VCSE.
- 9) publish details of total spend by supplier each month on their websites and take preparatory steps to publish details of any supplier rebates.
- 10) Continue the use of NHS Procurement Dashboard until it is fully replaced during 2017 by the Model Hospital Portal.

Summary of key actions for NHS Improvement

- 1) Publish further guidance and scope for the national PPIB service.

References

1. <https://www.gov.uk/government/publications/improving-procurement-in-the-nhs>
2. <https://www.england.nhs.uk/?s=2017%2F18+NHS+Standard+Contract>
3. <https://www.gov.uk/government/collections/nhs-procurement>
4. <https://www.gov.uk/transposing-eu-procurement-directives>
5. <https://www.gov.uk/government/publications/growing-your-business-a-report-on-growing-micro-businesses>
6. <https://www.gov.uk/government/publications/procurement-policy-note-816-standard-selection-questionnaire-sq-template>
7. [paying invoices in 30 days down the supply chain](#)
8. <https://www.gov.uk/government/publications/transparency-requirements-for-publishing-on-contracts-finder>
9. <https://www.gov.uk/contracts-finder>
10. <http://www.nhsemployers.org/news/2016/02/carter-report>
11. <https://www.gov.uk/government/publications/nhs-procurement-improving-transparency-and-understanding-performance>

For further information:

Amjad Kazmi	e-mail: Amjad.kazmi@dh.gsi.gov.uk
Sandra Barrow	e-mail: Sandra.barrow@dh.gsi.gov.uk
Pat Kavanagh	e-mail: pat.kavanagh@dh.gsi.gov.uk
Maxine Globe	e-mail: maxine.globe@dh.gsi.gov.uk