



Department
of Health

Guidance on the Local Procurement of External Auditors for NHS Trusts and CCGs

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Guidance on the Local Procurement of External Auditors for NHS Trusts and CCGs

Prepared by

Department of Health Accounts Branch and Commercial Policy

Contents

Executive summary	5
1. Background	6
2. Main Legislation Requirements.....	7
Auditor Panels.....	7
Eligibility and Regulation of Local Auditors	7
Timing	8
3. Specification for Audit Services and National Audit Office's Code of Audit Practice	9
4. Process and Procurement for Audit Services	12
Pre-Procurement	12
Procurement.....	12
5. Other Issues.....	17
Appendix A: Draft Specification of Audit Services	19
Core Specification	19
Further Areas to incorporate, if applicable:.....	20
Appendix B: Example of Response Information for an ITT	22
Appendix C: Example of Assessment Criteria	23
Example Pricing Schedule.....	25
Appendix D: Local Audit Appointment Milestones	27
Appendix E: Framework Agreements for Audit Services	29

Executive summary

1. Following the changes to the local external audit arrangements from the Local Audit Accountability Act 2014, NHS trusts and clinical commissioning groups will need to procure and locally appoint their own auditors for the year 2017 to 2018 and subsequent financial years. There are a number of requirements set in legislation which are outlined in this guidance. These include the role of auditor panels, and that auditors have to be registered through the regulation process to be eligible to audit local public bodies. The duties of the auditors are set out in the Act, together with their compliance with the Code of Audit Practice issued by the NAO. The Code therefore has been used as the basis of a core audit specification.
2. The Governing Board / Body will make the appointment, and the main procurement options are through an Official Journal of the European Union (OJEU) procurement complaint with Public Contract Regulations (PCR 2015), below threshold trust procurement or from an existing framework agreement. Frameworks may require less time and resource but can be more prescriptive on an approach to be followed, and may limit which organisation can call off. A key consideration for the procurement is achieving the best value for money through assessing the cost of the contract and other qualitative factors. Foundation trusts already appoint their own auditors and NHS trusts and CCGs are encouraged to tap into that knowledge, as well as networking and sharing knowledge, for example through the NHS Centre for Procurement Efficiency (CPE) portal.
3. Appointments must be made by 31 December 2016 and this guidance has been prepared as a signposting document to assist with that appointment process.

1. Background

- 1.1. The Department of Health confirmed in September 2015 that health bodies will move in 2017 to 2018 to a new audit framework under the Local Audit and Accountability Act 2014 (the Act)¹. NHS trusts and clinical commissioning groups (CCGs) therefore must select and appoint their own auditors and directly manage their contracts for the audits for the financial year starting on 1 April 2017. Local appointment will increase the local accountability and move NHS trusts and CCGs into line with NHS foundation trusts.
- 1.2. This guidance is intended to assist members of auditor panels at NHS trusts and CCGs with the initial audit appointments. It is a signposting document rather than a step by step, prescriptive guide, and sets out:
 - the legal requirements from the Act
 - a core specification for audit services
 - advice on procurement route and use of frameworks, and
 - related audit appointment issues.
- 1.3. The current contracts for the external auditors of NHS trusts and CCGs cover the 2015 to 2016 and 2016 to 2017 audits and were established by the Audit Commission, prior to its abolition in April 2015. The contracts are now managed centrally by Public Sector Audit Appointments limited (PSAA), as the transitional body set up as a company by the Local Government Association (LGA). PSAA manage the contracts for both NHS and other local bodies, and the local government bodies are moving to local appointment a year later than the NHS, from April 2018.

¹ <http://www.legislation.gov.uk/ukpga/2014/2/contents>

2. Main Legislation Requirements

2.1. The main requirements set in the legislation are:

- an auditor panel must be appointed to advise on the appointments (Part 3 section 8 and 9 of the Act)
- a local (external²) auditor must be appointed to audit the annual accounts by 31 December of the preceding year (Part 3, section 7(1) of the Act)
- an external auditor must be eligible for appointment in line with the Financial Reporting Council's (FRC) requirements (Part 4 and Schedule 5 of the Act)
- the appointment can be for longer than a year but there must be a new appointment at least once every 5 years (Part 3, section 7(2) of the Act) – see also paragraph 3.5 below
- an auditor can be re-appointed for further terms (Part 3, section 7(3) of the Act).
- two or more external auditors can be appointed to audit the accounts – in such cases the auditors may act jointly or separately (Part 3, section 7(6) of the Act). However in practice this is likely to be rare except possibly where different auditors are appointed for different elements.

Auditor Panels

- 2.2. The legislation requires CCGs and NHS trusts to set up auditor panels to advise their Governing Board or Governing Body on the selection and appointment of an external auditor. The Department, together with the Healthcare Financial Management Association (HFMA), have produced separate guidance on the role of the panels³.
- 2.3. The guidance notes that it is highly likely that in the first instance, most NHS bodies will decide to nominate their existing audit committee (or members of that committee) to act as their auditor panel. A key part of the reasoning being that audit committees have an established relationship with external auditors and agrees their annual strategy and plan.
- 2.4. HFMA have also produced an Example Terms of Reference for Auditor Panels which is available online⁴.

Eligibility and Regulation of Local Auditors

- 2.5. The Secretary of State has delegated most of his responsibilities for the regulation of external auditors of local public bodies to the FRC⁵. This includes exercising oversight over the bodies recognised by the FRC as Recognised Supervisory Bodies (RSBs) - professional accountancy bodies - that will register and regulate eligible audit firms.

² The 2014 Act and regulations use the phrase 'local auditor' being the external auditor for a local public body – eg a NHS trust or Local Authority etc. but in this guidance we use the term 'external auditor' to ensure that there is no confusion with internal auditors

³ <https://www.gov.uk/government/publications/auditor-panels-for-nhs-trusts-and-clinical-groups>

⁴ <http://www.hfma.org.uk/NR/rdonlyres/35434078-7034-4AEA-9011-C8B33B81D1CE/0/APtermsofreference14Dec2015.pdf>

⁵ Under the [Local Audit \(Delegation of Functions\) and Statutory Audit \(Delegation of Functions\) Order 2014](#)

- 2.6. The regulation of external auditors of local public bodies broadly replicates the Companies Act 2006 requirements for company audit. They state that only persons who are properly supervised and appropriately qualified are to be appointed as statutory auditors of local public bodies, and that those persons carry out audits properly, with integrity and with a proper degree of independence.
- 2.7. It is the responsibility of the RSBs to approve and register audit firms to undertake local audit work, and to approve individuals within those firms that both meet the statutory qualification requirements and are judged to have the appropriate level of competence to carry out local audits on behalf of the registered firm (key audit partners). RSBs also have to comply with FRC guidance in setting rules on the required minimum level of experience and skills for external auditors
- 2.8. With effect from 1 November 2015, both the Institute of Chartered Accountants in England and Wales (ICAEW) and the Institute of Chartered Accountants in Scotland (ICAS) were granted recognition as RSBs by FRC's Board. This means that FRC are content that the RSBs are ready to start registering firms and key audit partners. A list of firms registered will be available in due course on the website hosted by ICAEW⁶, which also gives further information on the process for audit firms.
- 2.9. External auditors are required by their ethical standards to maintain their independence from the organisations they audit. A provider of internal audit services (and potentially some tax advice and other consultancy services) to the organisation would have a conflict of interest and will not be able to compete for the external audit contract. Some further details are on PSAA's 'supporting the transition' webpages⁷.

Timing

- 2.10. The appointment of the external auditors must be made by 31 December 2016 for the 2017 to 2018 financial year. A list of the associated tasks and suggested timescales are set out in Appendix D. In planning for the procurement NHS trusts and CCG's are advised to consider the necessary lead times involved and timings for their Governing Board/Body's consideration.

⁶ <http://www.icaew.com/technical/audit-and-assurance/local-public-audit-in-england>

⁷ <http://www.psaa.co.uk/supporting-the-transition/procurement-and-appointment-of-auditors/management-of-auditor-independence-issues/>

3. Specification for Audit Services and National Audit Office's Code of Audit Practice

Auditor Duties and NAO's Code of Audit Practice

- 3.1. The main duties of external auditors are set out by the Act⁸, which states that the auditor must, by examination of the accounts and otherwise:
- be satisfied that the accounts present a true and fair view, and comply with any legislative requirements that apply to them
 - that proper practices have been observed in the preparation of the accounts, and
 - that the NHS trust or CCG have made proper arrangements for securing economy, efficiency and effectiveness in their use of resources.
- 3.2. Additionally there are a further three duties that only apply to CCGs:
- that money provided by Parliament has been expended for the purposes intended by Parliament
 - that the resources authorised by Parliament have been used for the purposes authorised, and
 - that financial transactions are in accordance with any authority which is relevant to the transactions.
- 3.3. The external auditors are also required to comply with the National Audit Office's (NAO) statutory Code of Audit Practice and have regard to any guidance issued by the NAO in support of the Code. The Code, issued by the NAO on behalf of the Comptroller and Auditor General (C&AG), came into force on 1 April 2015 and is available on the NAO website⁹. The NAO has also produced supporting guidance for auditors that is published on the NAO's website in the form of Auditor Guidance Notes.
- 3.4. In addition to applying to NHS trusts and CCGs, the Code and guidance also applies to NHS foundation trusts audits. The Code prescribes the way external auditors carry out their functions and sets out principles which should underpin the conduct and work of the auditor in discharging their statutory duties.
- 3.5. The Code has been used as the basis for a core specification. In addition the Code requires auditors to review consolidation returns for consistency with statutory accounts, which is also included in the core specification. Local procurement provides the opportunity to include additional audit related services for local circumstances. Appendix A provides a core specification for audit services with the following additional services:
- assurance that quality accounts comply with the regulations (for NHS trusts),
 - separate audit opinions required on corporate charity, and
 - separate audit opinions required on subsidiary accounts.

⁸ Section 21 and schedule 13 (10)

⁹ <http://www.nao.org.uk/code-audit-practice/>

- 3.6. The Auditor Panel will need to consider how the quality of the external audit service will be measured and monitored, how that should be incorporated in the service requirements, and included in the bidders evaluation.

Professional audit standards

- 3.7. In carrying out their audit in accordance with NAO's Code, auditors are required to comply with International Standards on Auditing (UK and Ireland) (ISAs (UK&I)) currently in force, and as may be amended from time to time, and have regard to any relevant Practice Notes (PNs) and other guidance and advice issued by the Financial Reporting Council (FRC) and formerly by the Auditing Practices Board (APB).
- 3.8. Auditors are also required to comply with relevant ethical standards and guidance issued or adopted by their professional accountancy bodies. This includes all extant Ethical Standards issued by the FRC and formerly by the APB¹⁰.
- 3.9. The audit standards (ISA (UK & I) 210) state that the auditor shall agree the terms of their audit engagement with management and those charged with governance, with the terms recorded in an audit engagement letter or other form of written agreement. The agreements are to include:
- the responsibility of the auditor
 - the responsibility of management / those charged with governance
 - identification of the applicable financial reporting framework
 - reference to the expected form and content of reports to be issued.
- 3.10. Engagement letters or agreements will therefore set out some of the terms of business with auditors, as set by the professional standards. It is important therefore that the contract or framework terms and conditions are consistent with the standards requirements.

Auditors Independence

- 3.11. It is also important that the contract terms and conditions for external audit do not fetter their independence, by placing undue obligations or restrictions on them. For example standard contract terms may ask suppliers to comply with NHS trust / CCG policies or provide specific information that would not be appropriate for external auditors. As a professional services organisation, the audit firm is expected to have its own policies and code of conduct in respect of their independence, which the contract will need to recognise.

Length of Contract and Change of Audit Team Members

- 3.12. The governing board / body and the Auditor Panel will also need to consider what would be an appropriate length of contract. Although the contract length can be anything from 1 to 5 years, 3 to 5 years is 'normal' and considered an appropriate period for an auditor to develop a strong understanding of the organisation. Contracts can be awarded with an optional extension period, such as 3 years with an optional 2 year extension. Whatever length of contract is chosen, it must be agreed at an early stage.

¹⁰ Note that the Financial Reporting Council (FRC) is revising the ethical standards and so auditor panels will wish to be aware of any relevant guidance on the application of revised ethical standards expected later in 2016.

- 3.13. Within a contract, it may be appropriate to change members of the team provided by the audit firm. A team or individual team members that have been in place for too long may no longer be sufficiently independent from the NHS trust or CCG. The current version of Ethical Standard 3, originally issued by the Auditing Practices Board (APB) for listed companies, may be used by audit firms and requires audit firms to arrange that:
- no individual acts as audit partner or quality review partner for more than five years, and
 - staff in senior positions do not work on the audit team for more than seven years.

Limitation of external auditor's liability

- 3.14. The Act requires that any agreements to limit the liability owed to your organisation by the auditor in respect of negligence, default, breach of duty or breach of trust must comply with regulations¹¹ made by the Secretary of State. These state that:
- a restriction on the duration of an agreement: it cannot cover more than the financial year or years to which the appointment of the external auditor relates, and
 - an agreement for limiting the external auditor's liability cannot be less than such amount as is fair and reasonable given the circumstances.
- 3.15. External auditors set their own limits on liability and auditor panels will need to review them as part of the procurement process and setting contract or framework terms.

¹¹ Local Audit (Liability Limitation Agreements) Regulations 2014 (SI 2014 No.1628)
<http://www.legislation.gov.uk/uksi/2014/1628/contents/made>.

4. Process and Procurement for Audit Services

Pre-Procurement

- 4.1. External auditors prepare their independent opinion on the organisation's statutory accounts and report to their Board or Governing Body, and are a key part of accountability arrangements. The Governing Board or Governing Body are therefore responsible for their appointment, and auditor panels, which could be a sub-set of the audit committee (see paragraph 2.2), are required to provide advice on their selection and appointment.
- 4.2. To undertake the procurement, it is likely that a small working group will be needed consisting of members of the auditor panel, the procurement team and other key stakeholders. In planning the process the working group would consider the overall specification, the procurement options available, and the procurement timetable.
- 4.3. The group may also wish to consider whether a joint procurement with one or more other NHS bodies is appropriate and could offer some economies of scale, for example sharing the procurement cost. The governance arrangements and oversight between the bodies, if this option is taken forward, would need to be agreed.
- 4.4. The working group would also need to determine what factors the Governing Board or Governing Body and the organisation consider important for the evaluation of the bids. As set out above the main audit scope is prescribed by the NAO Code of Audit Practice and firms must comply with the auditing standards, but further factors could include the firms' audit methodology and approach, their resourcing proposals, capability and experience and fee competitiveness. The group would also be expected to consider what should be the relative weighting for each criteria, including the balance between quantitative and qualitative factors, to provide the best value for money for the organisation.

Procurement

- 4.5. The options for conducting a procurement for external audit services are to either call off an existing framework agreement or to undertake a new tendering exercise following an appropriate procurement procedure. The Open or the Restricted procedures are the most appropriate procurement procedures under which to conduct the procurement, where the value of the contract is equivalent to or greater than the value specified in Official Journal of the European Union (OJEU threshold¹²). For these contracts the Procurement Contracts Regulations 2015 (PCR 2015) require a contracting authority to advertise the requirement for services by placing a contract notice in the Official Journal. If using a framework agreement, this requirement will have already been met.
- 4.6. The table below shows the OJEU tendering timetable for the Open and Restricted Procedures as well as an example of a mini competition under an existing framework.

¹² OJEU threshold is £106,047 for NHS trusts as for central government authorities, but is £164,176 for CCGs and NHS foundation trusts as they are classed as sub-central authorities.

The minimum timescales for the Open and the Restricted procedures are in compliance with PCR 2015.

Table 1 OJEU tendering timetable for the Open and Restricted Procedures

OPEN PROCEDURE	RESTRICTED PROCEDURE	FRAMEWORK (MINI COMPETITION)
Publish OJEU Contract Notice and ITT	Publish OJEU Notice, PQQ and ITT	
Publish notice in Contracts Finder within 24 hours of publishing OJEU Contract Notice	Publish notice in Contracts Finder within 24 hours of publishing OJEU Contract Notice	
	Minimum 30 days for receipt of completed PQQ	
	Evaluate PQQ	
	Notify shortlisted suppliers for ITT	
Minimum 35 days for receipt of tenders	Minimum 30* days for receipt of tenders	Realistic timescale for receipt of tenders
Evaluate tender and identify winning bidder	Evaluate tender and identify winning bidder	Evaluate tender and identify winning bidder
Min 10 days wait after issue of Standstill Letters	Min 10 days wait after issue of Standstill Letters	
Contract Award	Contract Award	Contract Award
Issue Contract Award Notice to OJEU within 30 days	Issue Contract Award Notice to OJEU within 30 days	
Publish contract award notice in Contracts Finder within reasonable time after publication of OJEU Contract Award Notice	Publish contract award notice in Contracts Finder within reasonable time after publication of OJEU Contract Award Notice	

4.7. The NHS Guide to Procurement provides further guidance on the stages in the table, and is available on the Centre for Procurement Efficiency (CPE) Procurement Portal (see paragraph 4.21). For a tender, where the value is below the OJEU threshold, contracting authorities should advertise the requirement in Contracts Finder and adopt a reasonable procurement timetable. The portal also contains tools and templates for where the services are below the OJEU threshold.

- 4.8. Appendix B to this guidance provides an example of information that could be requested at ITT. Appendix C provides an example of an assessment criteria. These have been compiled from NHS foundation trust examples, which have used frameworks.
- 4.9. The procurement of Audit Services should be undertaken in conjunction with the NHS procurement colleagues either internally or for example for CCG's using the services of a Commissioning Support Unit (CSU). The procurement team should have the expertise to facilitate the procurement process and be able to advise on the EU Public Contracts Directive 2014, the Procurement Contracts Regulations (PCR) 2015, and the trust's/CCG's own standing orders and standing financial instructions. The procurement team should also be able to consider the NHS framework agreements that are already in existence.
- 4.10. Although the need to procure Audit Services is a new approach for NHS trusts and CCGs, foundation trusts are already undertaking their own procurement processes for these services and the general feedback is that they are not complex procurements. Therefore, there may be many examples of good practice from FTs available across the system that they could share.

Framework Agreements

- 4.11. Framework agreements set out the terms and conditions under which Audit Services can be procured throughout the term of the framework agreement. A key advantage of using an established framework agreement is that as it has already been advertised in OJEU and has been subject to an OJEU procurement process, there is no need for additional OJEU advertisements.
- 4.12. There are a number of NHS framework agreements available for Audit Services which some foundation trusts are already using to fulfil their requirements. Appendix E provides examples of some existing framework agreements used in the NHS for Audit Services, for illustration purposes. Before using an existing framework agreement the NHS trust or CCG will need to ensure that they are captured in the scope of the original OJEU advertisement and are entitled to call off under the framework terms.
- 4.13. By calling off from an existing framework agreement, NHS trusts and CCGs have the assurance that all suppliers have passed the selection process based on technical ability, financial standing, and have demonstrated previous experience. Frameworks would normally ensure suppliers conform with applicable guidance, such as the code of practice. However, existing frameworks may have looked at the previous codes that were issued by Monitor or the Audit Commission. Trusts and CCGs when considering using a framework will need to assess this and ensure that compliance with the NAO code can be included as a specific requirement. Frameworks would normally be updated for these sort of changes when they are renewed.
- 4.14. The framework agreement should provide the necessary documentation to undertake a mini-competition amongst the approved suppliers of the framework agreement. The mini competition allows the trust or CCG to define specific requirements and amend the evaluation criteria to place a greater emphasis on the particular needs of the trust or CCG. Specific requirements may include to amend the terms and conditions to recognise auditors independence (as set out in paragraph 3.11).
- 4.15. When conducting a mini-competition under a framework agreement, there is no legal obligation to observe a specified timescale and the evaluation is simpler. This usually results in a reduction in the time taken to procure. There is no need to conduct a mini

competition when there is only one approved supplier under the appropriate Lot or when the terms of the framework agreement are clearly defined.

- 4.16. The other essential aspect, as set out in paragraphs 2.5 to 2.9, is that only audit firms that have completed their registration with RSBs are able to undertake the external audits of NHS trusts and CCGs, therefore this would be a specific requirement, as would the employment of approved individuals as the audit leads. NHS trusts and CCGs should therefore check there are sufficient registered audit firms in a frameworks approved suppliers at an early stage.
- 4.17. The prices quoted by the tenderers will be based on the agreed rates under the framework agreement and will be from the negotiation/agreement that has taken place between the tenderers and the contracting authority for the framework agreement. In considering frameworks the auditor panels will need to assess whether these will offer value for money.

Direct Contract

- 4.18. A trust or CCG may prefer to conduct its own procurement exercise and award its contract. Such a contract will need to ensure compliance with the Public Contracts Regulations (PCR 2015) and the organisation's own standing financial instructions/prime financial policies. The relevant guidance is referenced below.
- 4.19. The footnote link provides all relevant information and guidance relating to the Public Contracts Regulations that came into force in April 2015¹³.
- 4.20. The NHS Terms & Conditions for the Supply of Services (Contract Version) would be the most suitable for a direct contract award. They allow for optional and extra terms to be included as key provisions and these could add specific terms for external audit that would take precedent over the standard terms.
- 4.21. It should be noted that some audit firms have raised issues with the NHS Contracts' consistency with their engagement letters (see paragraph 3.9). NHS trusts and CCGs should consider discussing adjusting key provisions with potential suppliers to avoid any unintended differences which would prevent firms from tendering. The audit firms are often keen to use their own audit engagement letters as these have been approved by the firm's legal department and may contain clauses about audit fees and liability caps that are not specifically covered elsewhere.
- 4.22. The full suite of NHS Terms & Conditions for use by NHS bodies procuring goods and services from commercial organisations are available on the .gov website¹⁴.

Legal Tools & Templates

- 4.23. The Centre for Procurement Efficiency (CPE) Procurement Portal provides procurement tools and templates for use with a range of procedures compliant with PCR 2015.
- 4.24. The CPE portal provides the full suite of documents across the following procedures:
 - Open Procedure
 - Restricted Procedure

¹³ <https://www.gov.uk/transposing-eu-procurement-directives>

¹⁴ <https://www.gov.uk/government/publications/nhs-standard-terms-and-conditions-of-contract-for-the-purchase-of-goods-and-supply-of-services>.

- Competitive Dialogue Procedure
 - Competitive Procedure with Negotiation
 - Dynamic Purchasing System
 - Below Threshold
- 4.25. Each procedure includes the appropriate range of documents eg Open Procedure contains:
- Guidance on open procedure
 - Guidance on advertisements
 - Prior information notice 2015
 - OJEU contract notice 2015
 - Guidance on tender stage
 - Guidance on award criteria
 - ITT covering letter (open) 2015
 - ITT section A (open) 2015
 - ITT section B (open) 2015
 - Guidance on marking tenders
 - Guidance on debriefing and standstill
 - Standstill notification (successful) 2015
 - Standstill notice open (unsuccessful)
 - Covering letter with signed contract 2015
 - Contract award notice 2015
- 4.26. Although the CPE portal is restricted to members, all NHS procurement staff are eligible to join. To join NHS staff can request membership by emailing the CPE portal team at: cpeportalteam@dh.gsi.gov.uk.
- 4.27. Network and document sharing facilities are also available through the portal. This provides a good opportunity for NHS trusts and CCGs to share documents and approaches.

5. Other Issues

Public Notice on Appointment

- 5.1. Within 28 days of an appointment being made, a NHS trust or CCG has to publish a notice to name the external auditor; the length of the appointment; the advice, or a summary of the advice to the Board or Governing Body, received from the auditor panel; and, where it has not accepted that advice, the reasons why not. A full list of contents is set out in the Act.
- 5.2. This notice must be published on the organisation's website or in another format if the authority considers that it will reach the people who live within its area. The notice may leave out any information that may prejudice commercial confidentiality, unless it is in the public interest to publish such information.
- 5.3. In an exceptional case, where health body disagrees with the auditor panel's proposed selection and appointment recommendation, the legislation states that it must state the 'reasons why' publically, for example on their website. Evidently the content of these reasons must rely on any discussions that have taken place within the body.
- 5.4. Before a body decides to reject the advice of its auditor panel, it must bear in mind that the key principle of having a majority independent auditor panel is to provide separation and objectivity in the appointment process and to safeguard against partiality, real or perceived, affecting the process.

Failure to Appoint an External Auditor

- 5.5. If an organisation fails to appoint an external audit by 31 December prior to the start of the next audit year, they must immediately inform the Secretary of State through NHS Improvements' Director of Finance for NHS trusts or NHS England's Chief Finance Officer for CCGs. Under the Act they then have powers to appoint an auditor.

Resignation and Removal of an External Auditor

- 5.6. Resignation or removal of an external auditor is expected to be a rare occurrence. The regulations for removal and resignation provide for transparency in the process so that both the organisation and the auditor can make the reasons for their decisions public, and for the auditor panel to provide independent advice to the organisation on any decision about removal of the auditor, or circumstances around the external auditor's resignation.
- 5.7. In the case of removal, the organisation must give the auditor 28 days' notice of the proposal to remove them; the auditor will have the right to respond, and any response must be shared with the auditor panel; the auditor panel will advise on the proposal, and the organisation must take this advice into account; the auditor, and a member of the auditor panel, may attend and speak at any meeting considering removal; the organisation must publish a notice of their decision, including the external auditor's response, the auditor panel's advice, and if the organisation has not followed that advice, reasons why; the organisation must notify the supervisory body by which the external auditor is recognised of the auditor's removal from office.
- 5.8. In the case of resignation, the external auditor must give the organisation 28 days' notice of resignation including a statement of relevant circumstances to the organisation, which must forward it to the auditor panel; the organisation must respond in writing to the

auditor's notice; that notice and the organisation's response must be published by the organisation and forwarded to the auditor panel.

- 5.9. Following resignation, the auditor panel must investigate the circumstances of the resignation, giving a view on those circumstances and explaining any action it considers is required of the organisation to address issues raised.
- 5.10. In either case (resignation or removal), the organisation is required to make a new appointment within three months of the external auditor's departure; if it fails to do so it must inform NHS England (for CCGs)/ NHS Improvement (for NHS trusts) which must in turn inform the Secretary of State, who then has the power to appoint, or direct the appointment of, a specific external auditor. This is intended to give sufficient time to make a replacement appointment, whilst ensuring as short a time as possible without an external auditor.

Appendix A: Draft Specification of Audit Services

Core specifications below have been taken from the NAO's Code of Audit Practice and are statutory requirements; parts that are specific to CCGs are indicated.

The further areas of service are then set out and these are not statutory but should be included if appropriate.

Core Specification

To comply with the Code of Audit Practice prepared by the Comptroller and Auditor General and approved by Parliament and have regard to any guidance to auditors issued by the Comptroller and Auditor General.

Audit scope

To be satisfied that the accounts present a true and fair view, and comply with the requirements of the enactments that apply to them.

To be satisfied that proper practices have been observed in the preparation of the accounts.

To be satisfied that the audited body has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

(For CCGs) To be satisfied that money provided by Parliament has been expended for the purposes intended by Parliament

(For CCGs) To be satisfied that resources authorised by Parliament to be used have been used for the purposes in relation to which the use was authorised

(For CCGs) To be satisfied that the financial transactions of the group are in accordance with any authority which is relevant to the transactions

Reporting

To express an opinion on the accounts that includes the auditor's view on whether the accounts: (i) present a true and fair view and comply with statutory requirements (ii) have been prepared in accordance with proper practices.

(For CCGs) The auditor's opinion must include their view on the regularity of the body's income and expenditure i.e. that money provided by Parliament has been expended for the purposes intended by Parliament; resources authorised by Parliament to be used have been used for the purposes in relation to which the use was authorised; and that the financial transactions of the group are in accordance with any authority which is relevant to the transactions.

The auditor's opinion on the audited body's arrangements to secure economy, efficiency and effectiveness in the use of resources should only be provided if the auditor is not satisfied with the arrangements in place.

To certify completion of the audit.

To confirm that the group consolidation schedules (FMAs forms for NHS trusts) are consistent with the audited body's financial statements for the relevant reporting period, referring to any modification of the opinion on the financial statements.

Guidance on the Local Procurement of External Auditors for NHS Trusts and CCGs

To express an opinion on whether other information published together with the audited financial statements is consistent with the financial statements.

To express an opinion, where required, on whether the part of the remuneration report to be audited has been properly prepared in accordance with the relevant accounting and reporting framework.

Where appropriate, to give an opinion on the part of the financial statements that relates to a pension fund maintained by the authority under regulations under section 1 of the Public Service Pensions Act 2013.

To issue an annual audit letter to provide a clear, readily understandable commentary on the results of the auditor's work and highlight any issues that the auditor wishes to draw to the attention of the public.

To consider the issue of a report in the public interest.

To consider whether to make a written recommendation to the audited body, copied to the Secretary of State.

To refer the matter to the Secretary of State if the auditor believes that the audited body or an officer of the audited body is:

- about to make, or has made, a decision which involves or would involve the body incurring unlawful expenditure;
- about to take, or has begun to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency

Further Areas to incorporate, if applicable:

Audit of Charities:

(To note this is applicable to where NHS Trust or CCG is a corporate trustee and are responsible for appointing the auditors. A number of NHS charities fall below the audit thresholds, however organisations may want to appoint the same external auditor as independent examiner to the charity where they do not require an audit. Where NHS charities are now independent, it is for their trustees to separately appoint their external auditors.)

To provide the statutory financial external audit of the charitable trust and to be satisfied that the accounts comply with the relevant requirements of the Charity Commission, and are appropriately consolidated into the NHS Trust/CCG accounts.

Audit of Subsidiaries:

To provide the statutory financial external audit of ... subsidiary and to be satisfied that the accounts comply with the relevant requirements [as appropriate for that bodies' status – for example the companies act for limited companies], and are appropriately consolidated into the NHS Trust/CCG accounts.

Quality Accounts:

To provide independent assurance to confirm that the Quality Accounts of the NHS Trust have complied with the Quality Account Regulations¹⁵, been prepared in accordance with the guidance issued by NHS England and are fairly stated.

¹⁵ The National Health Service (Quality Account) Regulations 2010, the National Health Service (Quality Account) Amendment Regulations 2011 and the National Health Service (Quality Account) Amendment Regulations 2012 (“the Regulations”)

Appendix B: Example of Response Information for an ITT

The following information is an example of what could form the basis of the requested responses from bidders:

- Details of the proposed approach to planning, providing and managing the external audit services to this Trust/CCG, including:
 - Arrangements for planning audit work;
 - Arrangements for delivering audit services that are customised, responsive and aligned with key risks and the Trust/CCG's needs, and how any changes in scope will be handled (and charged);
 - Processes for controlling, monitoring and reviewing audit work - to give assurance that the audit work itself is sound and conforms to relevant professional standards;
 - Processes that you will employ to raise issues of concern, resolve accounting and reporting issues, and the steps you will take to ensure client satisfaction;
 - How your organisation will liaise and work with the Trust's / CCG's Finance Division and other internal stakeholders;
 - How your organisation will liaise and work with the Internal Audit service;
 - How your organisation will liaise with the Chair of the Audit Committee;
 - How your organisation will liaise with the related entities, eg Corporate Trustee of the Charity, subsidiaries etc.
- Details of reporting arrangements in connection with the external audit service, including details of how audit work will be reported, mechanisms for ensuring clarity and quality in reporting and arrangements for proper consultation and liaison with Managers in the preparation and follow-up of audit reports;
- Details of internal processes for quality assurance, and practices and arrangements to ensure sound governance, full independence and the avoidance of any conflicts of interest;
- An outline of the main issues relevant to the body in the next 2-5 years (to demonstrate understanding of the operating environment)
- Details of the organisation's policies in relation to ethical, environmental, equality and diversity and whistle blowing
- Structure (and location) of the proposed audit team, confirmation of proposed time key members will dedicate to the audit, Curriculum Vitae of key team members detailing relevant experience and skills, and approach to rotation, succession planning and continuity
- Brief details of why the organisation believes it is particularly well placed to provide the external audit service to this Trust;

Appendix C: Example of Assessment Criteria

NHS Trusts and CCGs will want to develop their own evaluation criteria to fit the most important factors for their external audit. Below is an example of how the criteria could be structured and scored, and a pricing schedule using daily rates¹⁶.

It should be considered the extent to which bidders will be able to be separated on each of the criteria, what will be distinguishing factors, and how this should influence the weightings, or adapt the scoring.

Criteria	Weighting
Specification – Methodology & Approach	X %
Specification – Resources, Organisation Capability & Experience	X %
Costs	X %

Specification – Methodology & Approach (x%)

Bids will be assessed on the following criteria:

1.Understanding of business, challenges and risks	Score 0-3
2.Approach to planning and reporting External Audit work	Score 0-3
3.Approach to delivery of External Audit Services	Score 0-3
4.Approach to liaison with various parties in the Trust/CCG eg Internal Audit, Audit Committee etc	Score 0-3

[All questions are equally weighted. Therefore, each of the above criteria is worth x% of the total x% available for the section.]

Specification – Resources, Organisation Capability & Experience (x%)

Bids will be assessed on the following criteria:

1.Quality of individual team members proposed	Score 0-3
2.Appropriateness of leadership and experience	Score 0-3
3.Robustness of own quality assurance procedures	Score 0-3

¹⁶ The alternative is a fixed fee tender, and for both NHS trusts and CCGs need to be clear in what circumstances the organisation may be approached for additional fees.

4.Demonstrates capacity to fulfil contract	Score 0-3
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[All questions are equally weighted. Therefore, each of the above criteria is worth x% of the total x% available for the section.]

The scoring methodology to be applied to each of the above criteria is as follows:

- 0 – Response has been omitted or is unclear, confused, poor and/or does not address the requirement.
- 1 – Response is weak (or inconsistent) and only partially addresses the requirement
- 2 – Response displays a suitable level of detail to assure a satisfactory delivery of requirement
- 3 – Response displays very good level of understanding on the delivery of the requirement and offers desirable added-value.

Costs (x%)

Bidders are required to complete the price matrix.

Costs will be evaluated using the price matrix provided, with the day rates applied to your proposed skills mix and totalled.

To evaluate, the lowest cost achieved could receive a set level of points, and then each other bid could be scored in relation to the lowest total cost bid, being that level less the percentage by which the bid total cost offered exceeds the lowest cost bid. For example if the lowest bid of £50,000 was awarded 40 points – then a bid of £55,000 could score 10% less ie 36 points (or a multiple depending on relative importance).

Example Pricing Schedule

Tender Ref:

Provision of External (Statutory) Audit Services

Company Name

Price Schedule - Statutory (External) Audit Services

	Day Rate (ex VAT) in £'s		
Grade	Year 1	Year 2	Year 3
Partner/Director	£0.00	£0.00	£0.00
Audit Manager	£0.00	£0.00	£0.00
Senior Auditor	£0.00	£0.00	£0.00
Audit Assistant	£0.00	£0.00	£0.00
Trainee	£0.00	£0.00	£0.00
Specialist Staff	£0.00	£0.00	£0.00
Other (please detail)	£0.00	£0.00	£0.00

All day rates quoted must be fully inclusive of all costs required to fulfil the services (travel, subsistence, accommodation etc. if applicable). No other fees will be chargeable, other than the day rates quoted within the price schedule.

Proposed DAYS by staff grade mix for statutory audit

	Proposed Days	Proposed Days	Proposed Days
Grade	Year 1	Year 2	Year 3
Partner/Director	0.00	0.00	0.00
Audit Manager	0.00	0.00	0.00
Senior Auditor	0.00	0.00	0.00
Audit Assistant	0.00	0.00	0.00
Trainee	0.00	0.00	0.00
Specialist Staff	0.00	0.00	0.00
Other (please detail)	0.00	0.00	0.00

Cost - Day * Day Rate

Grade	Year 1	Year 2	Year 3
Partner/Director	£0.00	£0.00	£0.00
Audit Manager	£0.00	£0.00	£0.00
Senior Auditor	£0.00	£0.00	£0.00
Audit Assistant	£0.00	£0.00	£0.00
Trainee	£0.00	£0.00	£0.00
Specialist Staff	£0.00	£0.00	£0.00
Other (please detail)	£0.00	£0.00	£0.00
Total Cost	£0.00	£0.00	£0.00

Appendix D: Local Audit Appointment Milestones

An indication of the milestones required is shown below with key dates shown in bold, and suggested dates in normal font.

Milestone	Date
Update Audit Committee re Local Audit & Accountability Act 2014, auditor panel regulations & guidance and seek a recommendation to the Board on the creation and composition of the auditor panel	March 2016 or before
Ensure status of the auditor panel is covered in the trust's scheme of delegation and update Audit Committee terms of reference to reflect revised arrangements and seek Board approval	March 2016
Appoint auditor panel	March 2016 or before
Agree dates of auditor panel meetings to ensure flexibility and fit within overall governance arrangements of trust re reporting to Audit Committee	March 2016 or before
Consider setting up working group with procurement colleagues	March / April 2016
Ensure key stakeholders in the process within the trust are advised of the process an outline timetable eg procurement	April 2016
Audit panel discuss and consider the options re contract arrangements are appropriate and reflect issues such as conflict of interest, limited liability agreements	April 2016
Audit panel / working group determine process to be followed - direct procurement or framework agreement	May 2016
If direct procurement	
- agree process and timetable for procurement	April / May 2016
- Prepare all tender and contract documentation	May / June 2016
- Advertise/ publish contract notice	June / July 2016
- Receipt of requests from firms to participate	June / July 2016
- Issue ITT	July 2016

Guidance on the Local Procurement of External Auditors for NHS Trusts and CCGs

- Meeting of potential tenderers/presentations [optional]	August 2016
- Receipt of tenders	August 2016
- Evaluation and shortlist	September 2016
- Final evaluation	September / October 2016
- Auditor panel recommendation	October 2016
- Decision approved by Board	October / November 2016
- Notification to all suppliers and contract award - including issue standstill letters, observe standstill period, award contract and submit contract award notices.	October / November 2016
If framework agreement	
- identify appropriate framework and contact framework supplier	May / June 2016
- confirm framework agreement complies with LAAA requirements	June 2016
- agree process and timetable	June 2016
- complete documents on mini-competition and service specification	June 2016
- Meeting of potential tenderers/presentations [optional]	July 2016
- Receipt of tenders	July / August 2016
- Evaluation and clarification period	September 2016
- Auditor panel recommendation	September 2016
- Decision approved by Board	October 2016
- Notification to successful supplier and award call-off	October / November 2016
Organisation must publish a notice of local auditor appointment within 28 days of appointment	October - December 2016
Local auditor appointment must be in place by: (in practise due to Xmas & New Year this may need to be earlier)	December 31st 2016 at latest,

Appendix E: Framework Agreements for Audit Services

Examples of five existing framework agreements used in the NHS for Audit Services are included below. These are solely for illustration purposes, and it is likely that there are other frameworks available.

They have not been checked for compliance as the decisions on selection and approach are the responsibility of the individual NHS bodies.

Questions to consider when considering whether a Framework is appropriate:

- is the NHS body within the scope of the framework and entitled to call-off the services?
- are there sufficient eligible (registered with the RSB) audit firms on the framework
- are the framework's services consistent with the statutory requirements
- do the agreed rates in the framework represent value for money
- are there associated costs with using the framework

Owner	Title	Suppliers	Period	Eligible Contracting Authority	Suppliers RSB Approved
Crown Commercial Services	Consultancy One	BDO LLP Deloitte LLP Ernst & Young LLP Grant Thornton UK LLP KPMG LLP Moore Stephens LLP PricewaterhouseCoopers LLP RSM Tax and Accounting Limited	16/5/13- /2/17	Any Public Sector Organisation	BDO LLP Deloitte LLP Ernst & Young LLP Grant Thornton UK LLP KPMG LLP Moore Stephens LLP PricewaterhouseCoopers LLP Not RSB approved (July 16)

Guidance on the Local Procurement of External Auditors for NHS Trusts and CCGs

North of England Commercial Procurement Collaborative	External (Statutory) Audit	BDO LLP Deloitte LLP Ernst & Young LLP KPMG LLP Mazars LLP PricewaterhouseCoopers LLP	12/2/16 to 11/2/19 plus extension to 11/2/20	NHS organisations including NHS foundation trusts, NHS trusts and CCGs, and/also a wide range of other public sector bodies NOE CPC member bodies/any additional new CPC members plus any other NHS/Public Sector bodies located in England, Wales, Scotland and Northern Ireland, subject to the approval of NOE CPC, including but not limited to Acute Trusts, Foundation Trusts, Clinical Commissioning Groups, Ambulance Trusts, Care Trusts, Hospital Trusts, Mental Health Trusts, Community Health Trusts, Special Health Authorities, Health Boards, NHS Commissioning Boards, Commissioning Support Units and other health organisations (Wales, Scotland and Northern Ireland), Health and Social Care Trusts (Northern Ireland), Community Health Councils, Local Health Boards, Social Enterprises, NHS Collaborative Procurement Hubs/Organisations, GP Practices, Primary Care Commissioners, Department of Health, Public Health England and Local Authorities (where Local Authorities are engaged in the provision or commissioning of health related services.	BDO LLP Deloitte LLP Ernst & Young LLP KPMG LLP Mazars LLP PricewaterhouseCoopers LLP
NHS Shared Business Services	Provision of Internal and External Audit & Counter Fraud Services	Deloitte LLP KPMG BDO (Was PKF (UK) LLP PricewaterhouseCoopers	10/5/16 to 15/5/20	All NHS SBS members and Associate members	Deloitte LLP KPMG BDO (Was PKF (UK) LLP PricewaterhouseCoopers

		LLP Ernst & Young Grant Thornton Mazars LLP Moore Stephens LLP			LLP Ernst & Young Grant Thornton Mazars LLP Moore Stephens LLP
East of England NHS Collaborative Procurement Hub	Audit and Consultancy Audit Services Framework	BDO Deloitte Grant Thornton KPMG Mazars Moore Stephens PwC	1/2/15 – 1/2/17 Plus extension to 2019	Central Government Departments and their executive agencies Non-Departmental Public Bodies (NDPBs) National Health Service (NHS) bodies Health Boards, NHS trusts, Community Health Councils and other constituent bodies of the NHS in Wales NHS Scotland and its constituent bodies Health and Social Care Trusts, Health Agencies and other constituent bodies of the NHS in Northern Ireland. Local Authorities Police Forces and other emergency services Educational establishments Registered social landlords (RSLs) Registered Charities Devolved and other administrations within the British Isles Her Majesty’s Prison Service The Ministry of Defence	BDO Deloitte Grant Thornton KPMG Mazars Moore Stephens PwC

Guidance on the Local Procurement of External Auditors for NHS Trusts and CCGs

				All Public Sector Bodies	
Health Trust Europe			Framework not renewed		