



East London
NHS Foundation Trust

Policy for Procurement and Contracting

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Services	Applicable to
Trustwide	√
Mental Health and LD	
Community Health Services	

Version Control Summary

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4.2	06/04/18	Jeniss Paclejan, Steve Newton		Appendices added
4.3	01/05/2018	Jeniss Paclejan, Steve Newton	Final	Financial Limits Updated

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1. Introduction

In order to ensure consistent and high quality procurement and contracting for East London NHS Foundation Trust (the Trust) it is important to have a policy. This document sets out the methodology for procurement and managing contracts which need to be compliant with legislation, consistent with the Trust's strategic objectives and SFIs.

2. Purpose

This policy aims to reduce risk by having a robust procedure available to staff with the following principals:

- All contracts are developed and reviewed within a clearly defined accountability framework.
- Staff involved in the process have access to appropriate guidance and support.
- All new contracts are generated due to a clearly identified need.
- There is consistency in the development, implementation and review of all Trust contracts.
- All Trust contracts and procurement processes are compliant with the Trust's strategic objectives, national guidance and relevant legislation.
- Appropriate consultation takes place when contracts are being developed.
- All contracts are properly disseminated throughout the Trust.

In line with good practice, this policy sets out a framework and a minimum specification for those involved in the development and management of agreements including the procurement process.

3. The Trust Strategy

The Trust strategic plan contains the following priorities:

- Improve the value it provides in the system through improving the health of the population.
- Develop existing and new partnerships for business growth and to promote social inclusion for all our service users to reduce health inequalities and encourage healthy lifestyles and choices.
- Seek new business opportunities consistent with our vision.

4. Proportionality

The level of resources the Trust allocates to the procurement process should be proportionate to the value, complexity and risk of the services, i.e. more resources will be required where higher benefits, costs savings, quality can be gained.

Furthermore, when planning, designing, and running procurements, the Trust should have regard for the bidding costs suppliers incur and seek to avoid wasted costs due to significant delays or material scope changes. This can be mitigated by engaging the marketplace in advance of procurements.

5. Rules and Principles regarding competition

The following rules must be applied to all procurement processes before commencement. They set out the principles of fair negotiation and competition.

The rules are as follows:

- The Trust must procure goods and services from companies who are best placed to deliver the needs of their patients and population.
- Procurement and commissioning by the Trust must be transparent and non-discriminatory and Public Contracts Regulations 2015.
- Payment regimes and financial intervention (KPI's and service credits) in the system must be transparent and fair.

Principles on cooperation and agreements:

- The Trust and suppliers must collaborate to improve services and deliver seamless and sustainable care to patients.
- The Trust acting as Commissioner should promote patient choice where appropriate.
- Ensure that patients have accurate and reliable information to exercise more choice and

control over their healthcare.

- The Trust as commissioners should not award contracts which restrict commissioner or patient choice against patients' and taxpayers' interests.

6. Non-discrimination and equality of treatment

The procurement process should not give an advantage to any bidder. This includes ensuring that decisions are taken, not with regard to the type of organisation specifically, but rather to how well that organisation meets the evaluation criteria.

Financial and quality assurance checks should apply equally to all types of suppliers, but be proportionate to the service being procured (see 'proportionality', above).

All suppliers must operate under these same principles when being asked to respond to any terms and conditions, tender specification, and pricing payment regimes, all of which must be transparent and fair.

7. Standing Financial Instructions (SFIs)

SFIs detail the financial responsibilities, policies and procedures adopted by the Trust. They are designed to ensure that the Trust's financial transactions are carried out in accordance with the Law and Government Policy in order to achieve probity, accuracy, economy, efficiency and effectiveness. They should be used in conjunction with the standing orders and the Scheme of Delegation adopted by the Trust.

SFIs identify the financial responsibilities which apply to everyone working for the Trust and its organisations. They do not provide detailed procedural advice and should be read in conjunction with the departmental and financial procedure notes. All financial procedures must be approved by the Director of Finance.

Should any difficulties arise regarding the interpretation or application of any of the SFIs then the advice of the Director of Finance must be sought.

In the event of a conflict between this document and the Trust's SFIs the SFIs will prevail.

8. Procurement thresholds contained within the Trust SFIs

Expenditure range	Action required
Up to £10,000 (Inc. VAT).	Quotation to be attached to the requisition obtained by requisitioner or Procurement.
£10,001 to £50,000 (inc. VAT).	Minimum of 3 competitive quotations, (Advertised on Contracts Finder, if value is over £25,000 excl. VAT).
£50,001 (inc. VAT) to EU tendering threshold*.	Formal tender procedure, advertised on Contracts Finder.
Above EU threshold.	Formal tender procedure within the EU.

*EU Threshold £181,302 (Excl. VAT) for service contracts, and £4,551,413 (Excl. VAT) for works contracts, as at 1 January 2018).

Decisions on which procurement solution to use will largely be determined by what the Trust is seeking to achieve and. Considerations include:

- The scope and quantity of the services and goods required.
- The scale strategic importance of the new agreement(s) being procured.
- Urgency of clinical need (e.g. where existing services have been suspended and interim provision is urgently required), outcomes required, service specification, funding model and payment profile.
- Is there more than one supplier that could potentially deliver the services?

9. E-Tendering

The Trust uses a Complete Tender Management (CTM) solution to manage the tender processes.

The CTM is configured to be compliant with the Public Contracts Regulations 2015 and is an end to end process for tender management. The Trust CTM system has IL3 security which is accredited by UK government.

The system publishes adverts in Contracts Finder and the EU Journal on behalf of the Trust.

10. ELFT Contract Lead, BDU and Procurement Roles

ELFT Contract Lead

Each contract shall be initiated and led by a Service Manager (the ELFT Contract Lead), who will:

- Have identified and justified the need for a subcontract in consultation with and under the authorisation of the appropriate Director or Service Manager.
- Have been allocated a budget in conjunction with Finance to cover the cost of the service
- Design the service specification;
- Have an in-depth knowledge of the service;
- Be involved in the contract management of the provisioned service to include:
- receive reports from the Supplier when necessary according to the contract and to monitor performance against any goals set out in the service specification;
- identify any issues, problems or successes the service has encountered;
- organise at regular intervals formal contract performance meetings as specified in the contract;
- work closely with the Business Development Unit (BDU) Clinical Procurement Officer or Contracts Manager in the process of subcontract development/drafting, negotiation, review, extension, renewal and/or variation (all variation contracts to be undertaken in communication with the Trust Contract Manager);
- routinely report on performance to the appropriate management group/committee for high value and high risk sub-contracts, and report by exception to their Director and the BDU Contract Manager for other sub- contracts;
- hold a copy of the contract.

The Contract Lead or Deputy are responsible for informing BDU of new subcontracts, extensions of and any variations to the current subcontracts (i.e. changes or additions to services or products provided).

ELFT Contract Lead Deputy

Every ELFT Contract Lead will normally have a deputy who can carry out the Contract Lead's duties in their absence.

BDU Role

BDU Contracts Team consists of the Head of Contract Compliance, Senior Contracts Officer and Clinical Procurement Officer.

BDU is responsible for;

- drafting the Subcontract Document to be signed by Supplier and the Trust
- negotiation of Terms and Conditions that are compliant with the Law, the Trusts Policy, Trust Strategy and, based on special requirements of the service provisioned
- ensuring that contract compliance is achieved by the Supplier in collaboration with ELFT Contract Lead by encouraging accurate and effective monitoring of contracts
- maintenance of accurate and up to date records of contracts, relevant documentation in relation to the contract such as Meeting Minutes, important correspondence between Suppliers and ELFT, contract variation and contract extension documents
- following contract protocols before contract signoff which includes approval from Finance and Department Director
- issuing contract variations, extensions and letter of termination
- provide strategic advice and support to Contract Leads in subcontract negotiations

Procurement Role

Procurement refers to the strategic sourcing of all goods and services and the processes associated with this including obtaining quotes and tendering.

Procurement is a strategic process that involves the activities and processes to acquire goods, services and works. Importantly, and distinct from “purchasing” which is the ordering and receipting of products, services or works, procurement includes the activities involved in establishing the fundamental requirements and sourcing activities such as market research and supplier evaluation, and the negotiation of contracts. The management of contracts has been devolved to ELFT service managers and directors.

11. Procurement Process

The procurement process should commence at least nine months (and a minimum of six) before the end of the existing agreement or before the new goods or services are required.

Where the Trust is evaluating options upon termination or expiry of an existing agreement, the decision-making process and key factors to be considered will be broadly similar to scenarios where the Trust is seeking to secure new service models or significant additional capacity. The main difference is that the Trust is considering options and making decisions in relation to existing goods and/or services.

If the Trust has decided that the service is no longer required you can begin the termination process.

If however the service is still required you can begin a competitive procurement process or if there is only one capable supplier you may proceed with a single tender action process or waiver.

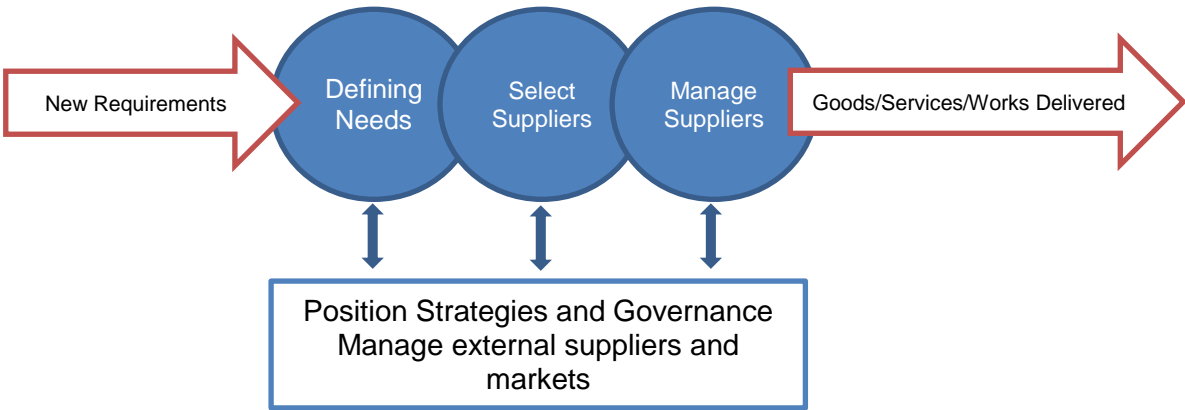
In addition it is important to consider external arrangements namely SBS, CPS and GPS arrangements.

The need to cease agreements can arise through:

- contract termination due to performance against the agreement not delivering the expected outcomes. This can be mitigated by appropriate agreement monitoring and management and by involving the suppliers in this. The agreement terms will allow for remedial action to be taken to resolve any problems. Should this not resolve the issues, then the agreement will contain appropriate termination provisions;
- the agreement expires; and
- services are no longer required.

The Trust will ensure where necessary that contingency plans are developed to maintain patient care. Where termination involves Human Resource issues, suppliers will be expected to co-operate and be involved in discussions to deal with such issues as agreed in the standard agreement.

Outline of Procurement Process:



12. Service Specifications

The purpose of the service specification is to describe the requirements, outcomes to be achieved and quality standards. It should give regard to relevant factors such as location, requirements of service users, and Key Performance Indicators (KPIs). It will also provide a useful basis for supplier's engagement and which may also allow the service specification to be refined.

Operational and Clinical leads are responsible for drafting the service specification. This activity is supported by the BDU and Procurement Team.

Also it is important to have regard for the Annual plan. This covers important aspects of service development, workforce issues, external influences and capital development. This should be consulted before beginning any process for procurement.

13. Pricing

The price for goods and services shall be accurately costed by the Trust. There are however some general principles that should be adopted.

- The price should include the cost of supplying the service to the Provider.
- A cost breakdown should be obtained, to include; -
 - Risk Premium-Profit / Mark-up
 - Overheads
 - Staffing
 - Delivery

Cost models can be used to benchmark existing goods and services which contribute to assess value for money and allocated budget. The analysis of these cost models will require input from the Trust procurement and finance personnel, where appropriate.

A failure to cost properly could result in the Trust making a substantial loss and/or not achieving value for money.

14. Sourcing suppliers

Once you have an accurate supply/service specification you will be able to look at what suppliers can offer in terms of services.

The purpose of the service specification is to describe the needs to be addressed and the outcomes to be achieved and quality standards. Also it should give regard to relevant factors such as location, requirements of service users and access requirements. It will also provide a useful basis for supplier engagements and may also allow the service specification to be refined

15. Supplier engagement

It is important to pre-engage with suppliers to develop and refine service specifications and explore the impact on such services on resources and staff requirements.

An advertisement is sometimes required for procuring goods and/or services (please see Procurement Thresholds) and involves suppliers being asked if they are interested in providing a service for the Trust.

16. Standard Selection Questionnaire

The standard Selection Questionnaire has been developed to simplify the supplier selection process for businesses, in particular smaller firms, across the public sector. In developing the SQ the opportunity has been taken to make the questionnaire compliant with the European Single Procurement Document (ESPD), and amended the rules on the selection of suppliers.

For more information please see:

[https://www.gov.uk/government/publications/procurement-policy-note-816-standard-selection-questionnaire-sq-template.](https://www.gov.uk/government/publications/procurement-policy-note-816-standard-selection-questionnaire-sq-template)

17. Evaluating Selected Tenders

A Project Team shall be formed to evaluate the tenders.

The evaluation panel should include Operational and Clinical leads, Procurement, Business Development Unit, and Finance. The stakeholders shall complete an evaluation to be kept as a permanent record. The evaluation should consist of financial and non-financial analysis.

Every tender evaluation has a weighting criterion and is based on the Most Economically Advantageous Tender which analyses quality, service, and price, (totalling 100%).

The technical qualitative analysis shall evaluate the bidder's ability to meet specification and will score each in accordance with the pre-set criteria.

The financial analysis shall compare bidders costs and include any enhancements offered. It will also examine the financial stability of the bidder.

As part of the evaluation it may be necessary to obtain written references from the potential supplier's client base. These will preferably be other NHS Trusts or other Public Sector bodies.

In certain circumstances, it may be necessary to hold post tender discussions. Post tender discussions are used to clarify elements of an offer.

18. Tender award

The panel will recommend an award of the contract to the Operational and Service lead and the Executive Team. Procurement will issue an award letter successful tenderer and a rejection letter to unsuccessful tenderers, offering debriefs.

A tender other than the lowest (if payment is to be made by the Trust or highest tender if payment is to be received by the Trust), shall not be accepted unless for good and sufficient reason the Executive Management Team decides otherwise on the basis of a report submitted by the procurement panel which supports the decision.

19. Contract and Subcontract registration

All contracts and subcontracts shall be stored registered by the BDU on the Contract Management Database. The record will include details of the ELFT contract lead, start and expiry dates, the management committee/group receiving performance reports.

ELFT Contract Leads shall make certain that meeting minutes, KPI reviews, important correspondence (i.e. issues, agreement in principle of service changes), performance reports, are sent to BDU. This shall then be stored in the contract management system to guarantee contract records are up to date and accurate.

20. Authority to sign contracts and subcontracts

Subject to the Financial Limits (Appendix one), subcontracts shall normally be signed by the Director or Acting Director of Service within which the Contract Lead is based. If the Contract Lead is the Chief Executive, the Deputy Chief Executive or a Director, they are able to sign.

The signatories of contracts and subcontracts shall be advised by BDU and the Contract Lead. However, the signatories shall ultimately be responsible for ensuring that the cost of the contract or subcontract has been adequately budgeted for and that the contract or subcontract is in the best interest of ELFT and its Service Users, and developed in compliance with ELFT's Standing Financial Instructions, Standing Orders, this and other relevant policies, and in line with the relevant contract with ELFT's commissioners.

21. Internal Audit

Internal audit primarily provides an independent and objective opinion to the Accountable Officer, the Board and the Audit Committee on the degree to which risk management, control and governance support the achievement of the Trust agreed objectives. In addition, internal audit's findings and recommendations are beneficial to line management in the audited areas. Risk management, control and governance comprise the policies, procedures and operations established to ensure the achievement of objectives, the appropriate assessment of risk, the reliability of internal and external reporting and accountability processes, compliance with

applicable laws and regulations, and compliance with the behavioural and ethical standards set for the organisation.

Internal audit also provides an independent and objective consultancy service specifically to help line management improve the Trust's risk management, control and governance. The service applies the professional skills of internal audit through a systematic and disciplined evaluation of the policies, procedures and operations that management put in place to ensure the achievement of the Trust's objectives, and through recommendations for improvement. Such consultancy work contributes to the opinion which internal audit provides on risk management, control and governance.

Internal Audit should fulfil its terms of reference by systematic review and evaluation of risk management, control and governance which comprises the policies, procedures and operations in place to:

- Establish, and monitor the achievement of, the Trust's objectives
- Identify, assess and manage the risks to achieving the Trust's objectives
- Ensure the economical, effective and efficient use of resources
- Ensure compliance with established policies (including behavioural and ethical expectations), procedures, laws and regulations
- Safeguard the organisation's assets and interests from losses of all kinds, including those arising from fraud, irregularity or corruption
- Ensure the integrity and reliability of information, accounts and data, including internal and external reporting and accountability processes.

It is the responsibility of the Chief Financial Officer to ensure an adequate Internal Audit service is provided and the Audit Committee shall be involved in the selection process when/if an Internal Audit service provider is changed.

Appendix One - Financial Limits

Role	Sum of Invoice Limit (£)
Chief Finance Officer	999,999,999
Deputy Director of Finance	999,999,999
Chief Executive	2,000,000
Deputy Chief Executive	50,000
Director of Operations	50,000
Chief Nursing Officer	50,000
Borough Director – Luton Mental Health and Wellbeing	50,000
Chief Medical Officer	20,000
Executive Director of Commercial Development and Performance	20,000
Borough Director – Newham	25,000
Borough Director – Tower Hamlets	20,000
Borough Director – Specialist Services	20,000
Borough Director – City & Hackney	20,000
Director of Estates	20,000
Director of Human Resources	20,000
Chief Information Officer	20,000
Associate Director of IT	20,000
Head of Forensics	20,000
Deputy Head of Forensic Service	20,000
Associate Director of Performance and Informatics	20,000
Borough Director – Bedford Mental Health and Wellbeing Services	15,000
Associate Medical Director	15,000
Financial Controller	10,000
Medical Director Bedford and Luton	7,500
Medical Director London	7,500

Appendix Two - Flowchart for Procuring Goods and Services

	Action	Activity	Responsibility	Sign-off date	Comments
1	Trust Project Manager identified	ELFT member of staff who will be lead stakeholder towards the tender process and manage resulting contract/framework	PROCUREMENT		
2	PID sign-off	PID to be signed off by Board member.	PROCUREMENT		PID will not always be necessary dependant on project/business need
3	Roles & Responsibilities / Project timetable	R&R's of all Stakeholders plotted against project timetable steps. See below	ALL		
4	Pre-contract award	• Award recommendation report	PROCUREMENT		
		• Acceptance letters and framework agreement	PROCUREMENT		
		• Purchasing reference guide	PROCUREMENT		To be forwarded to Operational Procurement
		• Supplier set up for Oracle ordering	OPERATIONAL PROCUREMENT		To be set up before Standstill end
		• Contract set up on Trust catalogue	OPERATIONAL PROCUREMENT		
5	Contract	• Draw up contract (liaise with preferred bidder and stakeholder)	BDU		
		• Manage sign-off process.	BDU		
		• Upload onto contract register	BDU		
AT THIS STAGE OF THE PROJECT FULL RESPONSIBILITY TO BE HANDED OVER TO THE STAKEHOLDER <i>(T&C's and any special terms / Purchasing reference guide(s) / outstanding issues)</i>					
		• KPI's	ELFT		
		• Review meeting schedule	ELFT		

Appendix Three – Procurement Process Roles and Responsibilities

Local Tender / Framework Agreement / Further Competition

This is based on a Restricted Procedure; two stage processes (PQQ and ITT stages).
For single Open Procedure stage skip PQQ and add “create specification” to ITT stage.

Stage	Role
Agree PID	PROCUREMENT / PROJECT TEAM
Create Specification	PROJECT TEAM
Create PQQ	PROCUREMENT
Sign off PQQ	ELFT
Issue OJEU notice, PQQ available for download	PROCUREMENT
Deadline for bidder clarification questions	PROCUREMENT
Final PQQ responses received from bidders	PROCUREMENT
Provisional checks of gateway and evaluation pack prepared	PROCUREMENT
PQQ evaluation date (Project Team)	PROCUREMENT / ELFT
Notification to successful and unsuccessful and bidder de-briefs	PROCUREMENT
Create ITT Pack	PROCUREMENT
Issue ITT to short-listed bidders	PROCUREMENT
Deadline for clarification questions	PROCUREMENT / BIDDER
Final ITT responses received from bidders.	PROCUREMENT / BIDDER
Preliminary compliance review / administration of ITT responses	PROCUREMENT
ITT evaluation (Project Team)	PROCUREMENT / ELFT
Bidder short-list and invite to presentation	PROCUREMENT
Bidder presentation and Q&A	PROCUREMENT / ELFT / BIDDER
Bidder visits	PROCUREMENT / ELFT / BIDDER
Final tender scoring / evaluation day (Project Team)	PROCUREMENT / ELFT
Award Recommendation Report	PROCUREMENT / ELFT

Notification of successful and unsuccessful bidder / bidder de-briefs	PROCUREMENT
Standstill period (at least 10 days)	PROCUREMENT
Contract Award	PROCUREMENT

Alignment to Framework Agreement (direct call off)

Stage	Role
Agree PID	PROCUREMENT / ELFT
Collection of spend data and requirements for Trust sites	PROCUREMENT / ELFT / SBS OP / SUPPLIER
Create Specification	PROCUREMENT / ELFT / SBS OP
Comparison of data to SBS Framework Agreement	PROCUREMENT / ELFT / SBS OP
Justification of award	PROCUREMENT
Appointment of new supplier	PROCUREMENT

Appendix Four – Flowchart of Tender Process

