

Finance & NHS Directorate Publish Procurement Transparency Guidance

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The Finance & NHS Directorate, Procurement, Investment & Commercial Division has released a policy document (Procurement transparency) which provides procurement guidance to all NHS provider organisations. The document follows on from the *'Better Procurement Better Value Better Care'* document published in August 2013 and focuses on two main topics: sharing expenditure data and opening up public procurement.

'Better Procurement Better Value Better Care' set out a commitment to establish a national Spend Analysis and Price Benchmarking service (the "National Service"). The guidance explains what information NHS providers will be required to submit to the National Service and aims to make procurement transactions more transparent, which in turn will aid the sharing of line-level procurement expenditure data between NHS providers. This is hoped to enable the comparison of prices, leading to increased competition amongst the supplier base and the prioritisation of specific expenditure categories for procurement action.

What are the key actions for NHS Providers?

The 2014/15 NHS Standard Contract has been amended so that all NHS providers are required to comply with the Transparency guidance if and when applicable. From April 2014, NHS providers are also required to take a number of steps, including:

- Refraining 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 Service;
- Take preparatory steps towards enabling the submission of accounts payable and purchase order data to the National Service;
- Responding to quarterly requests for price information in relation to a rolling basket of 25 items;
- Routinely submit their orthopaedic implant pricing information to the National Joint Registry;
- Abolishing the use of pre-qualification questionnaires (PQQs) for below threshold procurements;
- Using the standard core PQQ where required for high value contracts; take preparatory steps towards enabling the reporting of spend with small businesses (SMEs) and voluntary community and social enterprises (VCSEs) and payment performance with all suppliers;
- Ensuring that all contracts award notices over £25,000 are published on the Contract Finder Online Portal;
- Exercising a full procurement exercise for all contracts over £25,000 (up from £10,000) rather than just issuing 3 competitive quotations;
- Publishing details of total supplier spend each month on their websites (rather than just expenditure solely over £25,000) and take preparatory steps to publish line-level pricing information;
- Adopting NHS Procurement Dashboard during 2014/15 in order to report publicly against the core metrics for 2014/15 financial year.

The Department of Health and National Joint Registry will be publishing further guidance to assist NHS providers to discharge these actions which our firm will keep you updated on.

Market Perspective

This publication signals further confirmation of the Government's wider agenda to increase transparency in procurement in the public sector and seeks to further drive forward the cultural change around openness across health and social care.

NHS providers should benefit from greater transparency in procurement, which will hopefully increase their purchasing power, particularly where framework agreements are being put in place, or where groups of providers are seeking to drive better deals through aggregated spend.

However, it seems that NHS Foundation and non-foundation Trusts may increasingly be unable to rely on commercial confidentiality, so we are advising NHS providers to act on the basis that any procurement transaction data could be made available in the public domain. In addition, providers will need to ensure that their non-disclosure agreements, and any

confidentiality obligations in contracts with suppliers, are appropriately drafted, in order to ensure compliance with this latest policy document from the Directorate.

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