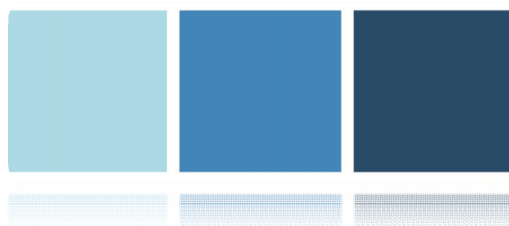


Procurement & Tendering Policy (3)

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Responsible Director:	Director of Finance & IT	
Approved by and date:	Operational Management Board	June 2021
Document Type:	POLICY	Version 3.0
Target Audience:	All Trust employees.	
Document Approval, History/Changes	See Appendix 3. For further information contact the Governance Department on [Redacted]	

Think of the environment...Do you have to print this out this document? You can always view the most up to date version electronically on the Trust intranet.



The Aims and Objectives of this Policy are to provide clear guidance to all Trust colleagues engaged in procurement and tendering processes on behalf of The Walton Centre, as to their legal, ethical, and commercial obligations.

In addition it aims to assure the Trust Board and Trust Members that clear auditable and resilient policies and processes are in place with regard to all Trust Procurements.

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1. Introduction

Procurement is a process by which an organisation obtains its requirements for goods and services in exchange for payment or some other form of consideration. This Policy incorporates the requirements laid down by the public contract regulations (2015), best practice, and The Walton Centre NHS Foundation Trust Hospitals' own requirements, specifically Standing Financial Instructions (SFI's) and is designed to ensure the Trust:

- acts in an open and transparent way;
- achieves best value for money;
- efficiently manages/allocates risk, assets, and stock;
- safeguards against allegations of corruption or bias maintaining a full audit trail to support its actions;
- complies with the Law;
- provides documentary evidence for management and audit purposes;
- ensures fair and equal treatment of all suppliers, avoiding bias, and favouritism;
- meets its procurement objectives;
- meets its wider objectives through procurement where relevant.

1.1. Purpose of the Procurement Policy

The Policy is written to complement Section 16 of the Standing Financial Instructions (SFIs), and has the same authority as the SFIs. It defines the action that must be taken by staff when procuring any goods and services for the Trust.

Only the Procurement Team has the authority within the Trust to place an order with a supplier, commit monies or award a contract to a supplier (once signed off by the appropriate person/committee as per the trusts SFI's and Scheme of reservation and delegation SORD).

Failure to comply with the requirements of the Policy could result in:

- allegations of fraud and corruption against The Trust;
- the need to re-tender resulting in additional costs and delays;
- legal challenge/litigation;
- DH investigation;
- Audit intervention;
- adverse publicity with damage to The Trust's reputation;
- disciplinary proceedings against staff.

2. Scope

This policy applies to **all** Trust employees including those who are empowered as budget holders, Directors or Executive Officers.

Failure to comply with this policy may result in escalation of instances to the trust executive team and or trust board by the Associate Director of Procurement, so appropriate action can be taken.

3. Definitions

- Tender - a strictly controlled process for inviting bids for goods and services in as wide and competitive a market as practical. This places the contract under the Trust's and/ or the NHS terms and conditions. The term tender is also used to describe the offers received from suppliers.

- Quote - This is a response to an approach by the Trust to a limited number of suppliers for a price for a specified requirement.
- Contract - this is a legally binding agreement between the Trust and its supplier relating to the provision of goods and services.
- Framework Agreement - an agreement put in place as part of the tendering process either between the Trust and one or more suppliers, where the volume of goods and/ or services is not known, or an agreement put in place by NHS and other organisations from which the Trust may procure goods and/ or services under a call off agreement.
- Aggregation - this is the value of items which when added together across the Trust as a whole reach or surpass the thresholds.

4. Duties

4.1. The Business & Performance Committee will:

- Review and approve this policy;
- Provide overview and scrutiny of its applications.

4.2. The Director of Finance will:

- Be the Executive Director responsible for this Policy.

4.3. The Deputy Director of Finance:

- Has delegated responsibility for the line management of the Procurement Department.

4.4. The Associate Director of Procurement:

- Leads and supports the implementation of this Policy;
- Acts as the main source of advice and guidance for the Trust on procurement matters;
- Proposes and implements agreed procurement strategies;
- Monitors and reports to Trust Executives issues of non – compliance with this Policy.

4.5. The Procurement Team will:

- Undertake all procurements in line with this Policy and supporting policies;
- Engage suppliers and stakeholders to ensure compliance with this Policy.

4.6. All employees will:

- Follow the procurement & tendering processes in Sections 5, 6, 7, 9, and 10 of this Policy.

5. The Procurement Process

5.1. When to involve the Procurement Team – the rules

Note: The following process applies to ALL MONIES within the Trust, including charitable funds.

Up to £10,000 (Inc. VAT)	Obtain alternative prices – one written quote
£10,000 to £50,000 (Inc. VAT)	Three written quotations
£50,000 to OJEU threshold (Inc. VAT)	Formal (under threshold) tender
Over OJEU (Ex VAT)	Full OJEU process (over threshold)

Please note that there may be occasions whereby the Procurement Team opts to undertake a formal tender process for purchases below the £50k threshold.

5.2. Order Timescales

It is the aim of the Procurement Team to convert all requisitions on the electronic ordering system into orders within 24 hours. If the team are made aware of urgent requests then a period of 4 hours will apply. Please note these timescales are dependent on the electronic approval of the budget holder and where necessary the designated member of the Trust Board. Turnaround timescales are also dependant on the relevant information contained within the requisition e.g. correct product codes, suppliers, quantities and supplier bank account details (set up via the finance team).

5.3. Materials Management Service (stock orders)

These are items of any value that are used regularly requiring The Trust to hold stock on wards. These items are replenished via the Materials Management Service (Ward Top Up). The Procurement Team along with the Ward Managers have set stock levels, and monitor these levels regularly. When the levels reach the minimum order quantity they are replenished via Materials Management who are members of the Procurement Team.

These items are purchased via NHS Supply Chain, Bunzl or via direct supply. All goods supplied under the Materials Management Service have been procured to EU guidelines.

The process for adding or removing items to or from Materials Management is via a form which needs to be completed by the Department Manager and the Procurement Team.

Regular ward stock reviews will take place between the materials management lead and ward/department managers to assess stock holding levels and ordering patterns, The aim of this meeting is to ensure stock holding levels are adequate to reduce the risk of running out of items or goods becoming out of date or obsolete.

At a review the ward managers will be required to provide a signature to authorise the materials management team to order up to the agreed weekly levels of stock.

5.4. Consignment Stocks/Vendor Managed Inventory.

These are items agreed in advance with a supplier as part of a contractual arrangement, and held by the Trust but not invoiced by the supplier on delivery. Once a consignment stock item has been used the Ward or Department will raise an order quoting the lot number of the item which will lead to the supplier generating an invoice for that item, and triggering their own internal replenishment process. Any variation to inventory items, or quantities on a consignment stock system must be with the engagement of Procurement as it may vary the terms or value of a contract.

All consignment stock used must still be replenished by a purchase order, which should quote the lot number used.

Consignment agreements (dependant on their value) will be made visible to the trusts executive team, business performance committee and or trust board to ensure transparency around the value of consignment stock holding within the organisation.

5.5. Medical Devices

The Procurement of all medical devices of **ANY** value must be referred to the Medical Devices Group and include the trusts EBME lead. Under **NO** circumstances should quotes for medical devices be obtained directly by Clinical personnel.

Meetings may be held with suppliers to discuss the technical specifications and to research new products onto the market, **but commercial discussions with suppliers can only be conducted with The Procurement Team.**

Meetings may be held with suppliers by the R, D & I Team to discuss new products / devices for inclusion in clinical research trials conducted in compliance with Trust and regulatory requirements. Procurement should be involved in discussions with all suppliers as often innovation offerings will need to ensure procurement processes are followed.

The Law around tendering is complex, and you may compromise the Trust's position without even realising it. You can even put yourself in a position of being accused of fraudulent activity. (See Section 6.4).

5.6. Specifications

Specifications must be agreed and signed off prior to commencement of a procurement process with all questions, weighting, financials and scoring criteria agreed in advance. All specifications must be developed through clinical and business colleague engagement and stakeholder groups will be required to sign declaration of interest forms as part of the procurement process.

5.7. Purchase Order System.

All orders raised on the electronic procurement system are emailed directly to the company and therefore telephone orders are not permitted. Departments must input a requisition in all instances onto the trusts purchase to pay system and no commitment to purchase any goods or services must be made with a supplier without a valid purchase order, nor should orders be made retrospectively (after the goods or services have been received).

If the requisition is of an urgent nature, the requisitioner is to contact the Procurement Team who will then deal with this request as urgent.

Where there is a trust approved catalogue available for goods, requisitioners are responsible for ensuring the use of these catalogues. Where a catalogue item is available and a non-catalogue request is submitted, these will be returned to the requisitioner and a new catalogue requisition will need to be placed.

Requests to set up new or additional users on the e-procurement system must be done so by using the relevant request form, which should be authorised by the departmental manager. Forms can be obtained from the procurement team.

The hierarchy for requisition authorisation is set within the scheme of reservation and delegation (SORD) and all requisitions must follow the required approval chain as per the trust SFI's.

5.8. Waivers

The Chief Executive, Director of Finance or Deputy Director of Finance may waive the requirements of this policy, however this will only be undertaken in **extreme**

circumstances once they have received the evidence to support the request. The formal quotation or tendering procedures may be waived for a number of reasons for instance:

- The goods and services required are of such specialised nature that in the opinion of the Chief Executive, Director of Finance or Deputy Director of Finance it would not be possible or desirable to obtain competitive bids.
- The supply of the goods and services are in the opinion of the Chief Executive, Director of Finance or Deputy Director of Finance so urgently needed as to justify bypassing competitive bids.

A full list of valid reasons for quotation and tender waivers may be found in Section 16 of The Trust's Standing Financial Instructions.

The request must be supported with comprehensive justification and if accepted, the request will be passed from the Associate Director of Procurement (or delegated personnel in times of absence) to the Deputy Director of Finance, Director of Finance or the Chief Executive for approval (dependant on the waiver value).

The Procurement Team keeps all waivers logged in a Register of Waivers for Audit inspection.

Waivers cannot be applied retrospectively, and cannot be used to justify the failure to act or commence tender procedures in a timely manner.

ALL waivers must only be used in exceptional circumstances and in line with the reasons set out in the trusts standing financial instructions.

All waiver forms must be referred to the procurement department in the first instance and before any commitment to purchase is made.

Waivers are only permitted up to the OJEU threshold and expenditure in excess of the OJEU threshold should not be waived. Please contact the procurement department for further advice and guidance.

Waivers over the value of £50,000 including VAT are presented to the Audit Committee each quarter where they are further reviewed by committee members.

5.9. Over Threshold Tender(s)

Law states that the Trust is compelled to tender the goods or services if the spend for those goods or services (over the full life of the contract) totals more than the Public Contract Regulations 2015 tender thresholds (PCR) 2015. Currently this is **£189,330 for goods and service and £4,733,252 for works**. These thresholds are revised every two years and the next amendment is scheduled for 1st January 2022.

THERE ARE NO EXEMPTIONS FROM THIS PROCESS. THIS IS A LEGAL REQUIREMENT AND IF BREACHED THE TRUST WOULD INCUR CONSIDERABLE FINANCIAL PENALTIES – PLEASE CONTACT THE ASSOCIATE DIRECTOR OF PROCUREMENT OR THE PROCUREMENT TEAM IF YOU ARE IN DOUBT.

Please find below the current Procurement thresholds:

Thresholds applicable from 1 January 2020 are given below. Thresholds are exclusive of VAT and relate to the full life of the contract.

- Supplies, Services and Design Contracts - £189,330

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- Works Contracts - £4,733,252
- Social & other Specific Services (Light Touch Regime) - £663,540

On the 31st December 2020 the UK left the EU, thresholds will remain aligned to those in the WTO Agreement on Government Procurement (GPA) as detailed above, the next review of these threshold (which takes place every other year) is 1st January 2022.

Please contact the procurement department who will be able to provide advice on where specific categories of expenditure sit within the above thresholds.

5.9.1 Aggregation

Under procurement rules aggregation must be applied to any purchase that is subject to the public contract regulations and directives. When determining if a contract is over the threshold and therefore subject to the procurement Rules you must aggregate the value of all individual requirements expected to be awarded at the same time for goods or services of the same type across The Trust.

Where there is a continuing requirement, recurring contracts or orders of the same type for the same item/ services let over a period, these must be aggregated irrespective of existing commitments.

You should not disaggregate purchases simply to avoid the application of the procurement rules. Neither should you aggregate purchases just to bring them within the scope of the rules.

Aggregation is compulsory for application of the thresholds. However, the aggregation rules do not necessarily mean that there can only be one contract. Several contracts could be awarded, but each one should be treated as if the rules applied to them individually.

5.10. Equipment Lease Agreements

Any new proposed equipment lease agreements for the Trust must be forwarded to the procurement department and the Financial Accountant who is responsible for review.

Equipment lease agreements must still follow the relevant procurement rules and regulations and expenditure sign off procedure as per the trust SFI's and SORD

6. Goods in/out policy

6.1. Goods In

All inbound items must be delivered to central receiving point (Sid Watkins Building) . Goods should not be delivered to Wards or Departments directly unless the Department in question has the correct receipting processes in place and authorisation from Procurement. Failure to comply with this Policy results in goods not being receipted promptly, the Trust not paying suppliers on time and suppliers refusing to supply in future. The Internal Logistics Team will deliver goods to wards and departments. Wards and departments will be required to sign an internal delivery note to acknowledge receipt.

It is the responsibility of the requisitioner to ensure that services are receipted within the system as these are not receipted by the central receiving point team, please note receipting of goods or services must only take place after the actual delivery of goods or use of services.

6.2. Goods Out/Goods to Suppliers/Goods Transferred to other Sites or Other Trusts

All goods being returned to suppliers or transferred between sites must follow the Goods Outwards Process. A Goods Out>Returns form must be completed and sent to Stores. Stores will then pick up the item and have it returned or transferred. You should not return or transfer items or assets other than through this process to ensure that the Trust receives payment or refund appropriately.

6.3. Loan/Trial Equipment and Product/Consumable Evaluations

If equipment is offered for trial or loan within the Trust, both Procurement and Finance must be notified before the item is agreed to be taken on trial/loan.

In the case of Trials Equipment it is essential that Procurement is engaged at the start of the process as the use of Trial Equipment may lead to a procurement. Failure to engage correctly with a potential supplier(s) at the very outset of such a process may invalidate the ultimate procurement, leading to challenge or a non-effective contract. Any medical equipment loaned to the Trust by our suppliers for clinical trials, or any other purpose, **MUST** be covered by an indemnity contract. These are available from the Procurement Team.

Indemnity contract exists and the equipment is used within the Trust, the Trust will not be covered for Insurance nor will the clinician. Clinicians' Professional Indemnity Insurance is at risk if any uninsured kit is used in any procedure. If in doubt, check with the Procurement Team.

All loan/trial equipment must be delivered via Stores, where it will be sent to Electro Biomedical Engineering (EBME) for the appropriate checks prior to its use. Again, if EBME have not checked kit before it is used, our Insurance may be invalid.

All product and consumable trials must be co-ordinated in conjunction with the procurement department, no trial must be agreed or entered into with a supplier without a relevant cost analysis and vetting of suppliers to ensure that the products offered can be procured legally, meet the required delivery timescales and can be supplied in an appropriate pack size. Other considerations such as consumable compatibility with existing equipment must also be considered as changes in agreed products could invalidate warranties on certain pieces of kit.

A product trial form must be agreed (in consultation with the procurement team) prior to the start of any trial and forms must be completed by staff when evaluating alternative products to record outcomes. All feedback forms for every trial must be returned to the procurement team so feedback can be collated and outcomes recorded to ensure a full audit trail. Failure to follow the relevant trials process may mean that an evaluation has to be re-started. All suppliers invited to participate in a product/consumable trial must be treated fairly and consistently.

Before any proposed change can take place to any products or consumables a quality impact assessment must be completed to ensure that any risks associated to the changes have been addressed / mitigated.

Trust wide consumable changes will be discussed, evaluated and agreed via the trusts clinical procurement group (CPG). The CPG is chaired by Procurement and consists of clinical and non-clinical colleagues who make decisions on the use of alternative products at the trust in order to deliver quality to patients and value for money.

Any supplier representatives visiting trust sites must abide by the trusts representatives policy at all times. Trust staff also have a responsibility to follow this policy and a copy can be obtained from procurement or is available on the trust intranet.

6.3.1 Supplier/Product Changes

Any required changes to suppliers or supplier products/services must be supported by the procurement department, this is to ensure that trust SFI's are followed, current contracts are not breached and the relevant supplier checks can be carried out to ensure any new product or supplier can provide goods/services of a quality standard and competitive cost.

6.4. Procurement Ethics and Standards

Ethical behaviour in procurement is particularly important for Public Sector bodies; there is additional scrutiny involved with the expenditure of Public Funds. The integrity and professionalism of individual members of staff, and The Trust as a whole should be maintained at all times. Any Trust employee who is involved in a Procurement decision or process must declare any interest in the companies involved in the process; this includes being related to a company representative, Director Etc., shares or ownership in the said company or any other aspect which would be deemed as a personal relationship. Please note that this ruling also applies in the instances whereby Trust employee's partners, spouses and all family members including parents, brothers and sisters have an interest in the company in which the Trust may enter business relationships.

The guiding principles of ethical behaviour in Procurement are as follows:

- The conduct of The Trust's employees should not foster the suspicion of any conflict between their official duty and their personal interest.
- The action of The Trust should not give the impression that they have or may have been influenced by a gift or consideration to show favour or disfavour to any person or organisation.
- Dealings with suppliers must at all times be honest and fair.
- Ethical behaviour must be promoted and supported by appropriate systems, such as the procedure set out in this policy and by the governance, as set out in the Standing Financial Instructions (SFI's) and Rules of Procedure.
- Information provided by suppliers should be regarded and treated as confidential.
- Sufficient records are kept to establish an audit trail to demonstrate that appropriate standards have been observed on each purchase.

6.4.1 It is an offence under the Bribery Act 2010 for staff to accept any gifts or consideration as an incentive or reward for doing anything in an official capacity, or showing favour or disfavour to any person in an official capacity.

6.4.2 All staff in contact with suppliers are vulnerable to accusations of fraud and corruption as they are in contact with the commercial world where it may be normal practice to offer gifts and hospitality.

6.4.3 It is vital that the Trust's staff are above reproach, and are seen to be above reproach, in their actions and must ensure that their personal judgement and integrity cannot reasonably be seen to be compromised by the acceptance of benefits of any kind from a third party.

6.4.4 Examples of situations that may be considered unethical are as follows;

- Divulge competitor's prices to another supplier;
- Release of confidential information during a procurement process;

- Compromise supplier intellectual property rights;
- Invent lower bids to force prices down;
- Refusing to use a supplier's product on the basis of clinical or personal preference, where pre-procurement trials have demonstrated no clinical risk;
- Refusing to undertake clinical trials on new products/suppliers;
- Call for unnecessarily short delivery times;
- State time as 'of essence to the contract' unnecessarily;
- Promise a longer contractual term than is required or sustainable;
- Permit some but not all suppliers in a tender or competition to re-quote;
- Give false information under any circumstances;
- Use a dominant position to take unfair advantage of a small supplier;
- Allow personal bias or prejudice to influence procurement decisions;
- Solicit or accept from suppliers any 'personal favours';
- Accept bribes of any kind;
- Develop personal relationships with sales staff, which could affect decisions;
- Any existing relationships should be declared prior to the tender exercise;
- Allow staff to hold undeclared financial interests in suppliers;
- Make alterations to tender documents and /or processes that are not communicated to all bidders.

7. Approval to Proceed with Procurement (Confirmed Funding/Business Case)

- 7.1.1 An appropriate source of funding must be identified before obtaining quotes or tendering can take place, except where framework agreements are proposed as these are used to identify preferred suppliers.
- 7.1.2 Goods and/ or services are acquired on the basis of need and funding being available.
- 7.1.3 In the event that additional funding is required, a business case must be made. No contract award may be made for which funding is not identified. In the event that no source of funding (in part or in total) has been identified the Director of Finance must authorise proceeding with the procurement, in writing (e-mail will suffice).

8. Records Management, Confidentiality and Freedom of Information Act

8.1. Records Management

All staff are responsible for managing information and keeping control of written records. All records must be maintained in an identifiable electronic filing system, easily accessible for inspection by the auditors, or other staff members, upon request.

- 8.1.1 Files should be kept tidy with contents secured, in date order. Documents should be clearly labelled and dated. All files should be coded in relation to their content.
- 8.1.2 Electronic documents must also be kept in an identifiable filing system on the shared drives, with clearly defined references that are centrally known and understood.
- 8.1.3 Written records in relation to the procurement process must be maintained, in particular, information on quotations (written and verbal), tenders, evaluations, decision-making, and value for money.
- 8.1.4 If critical documents are emailed they must be carefully saved electronically and in some cases printed and filed, (documents such as quotations, proposals, and acceptance letters and so on).
- 8.1.5 All tendering activity must be conducted via the trusts e-tendering portal to ensure a clear auditable trail.

8.2. Confidentiality and Freedom of Information

8.2.1 The Trust is subject to the Freedom of Information Act 2000 (FOI Act). The FOI Act is intended to ensure a culture of openness in public authorities. The public have a right to access any information held by the Trust. This right of access is subject to certain strictly defined legal exemptions.

8.2.2 The Trust cannot contract out of its FOI obligations. The FOI Act uses a Public Interest test, which may override commercial confidentiality. The Public Interest test balances the maintenance of confidentiality against the public's right to know.

8.2.3 When entering into contracts, the Trust should:

- Refuse to accept standard blanket confidentiality clauses. They are unlikely to be enforceable;
- refuse to include contractual terms which purport to restrict the disclosure of information beyond the restrictions permitted in the Freedom of Information Act;
- refuse to hold information received from third parties in confidence if it is not confidential in nature;
- only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of The Trusts functions, which would not otherwise be provided;
- accept confidentiality provisions only if there are good reasons that are capable of being justified to the Information Commissioner;
- ensure anything which can be defined as a "trade secret" or patentable is covered by a separate Intellectual Property Agreement/Clause;
- be aware that commercial confidentiality exemptions successfully applied at the time of signing a contract may not apply at a later stage in the relationship.

8.3. Environmental, Social Value and Sustainability

Environmental and sustainable issues are important to the Trust. Significant environmental and social impacts occur in supply chains and can be reduced through purchasing strategies. Some projects require particular environmental expertise from service providers or particular environmental credentials in goods to be used. The following options, for minimising negative environmental and social impacts and maximising positive impacts, should be considered:

- ensuring compliance with environmental legislation such as import restrictions, restrictions on the use of certain materials, labelling requirements on goods;
- ensuring that procurement supports the specific environmental/green and social value objectives and targets of programmes and projects such as energy efficiency of new buildings and equipment;
- ensuring that service providers have the capability to meet the technical environmental aspects of projects;
- choosing Suppliers from our local community first, where possible;
- Ensuring that Procurement Policy Notes (PPN's) are adhered to, such as ensuring that Social Value weighting is included in procurement activity (minimum of 10% weighting) for those procurements subject to the PCR 2015 and commencing after 1st January 2021.

9. Tendering Procedure

This procedure is written to support the Procurement Policy that governs the process by which contracts for the procurement of goods and services are let. Reference must be made to Scheme of Reservation and Delegation (SORD) and Standing Financial Instructions (SFIs).

9.1. Procedures for Tenders

9.1.1 Identify the need for goods and/or services:

- The user or service manager will usually identify the need to procure goods for a variety of reasons such as increased capacity for equipment in use, replacement of existing goods and technology innovations;
- For some services or changes in working practices using different technologies a business case may be required. This should be prepared by the lead user and submitted to the appropriate Divisional Director;
- Once it has been agreed that the goods and/ or services are to be procured, the source of funding should be identified. There are a number of potential sources:
- The capital programme;
- Revenue expenditure that may be through lease payments or an individual budget;
- Other sources such as Trust or charitable funds;
- If no source of funding has been identified, or it is insufficient, authority to proceed should be requested from the Director of Finance;
- All members of a tender evaluation panel should declare any special interest through a conflict of interest form for any supplier or organisation who may potentially apply for the business at the trust. All declarations should be made to the relevant procurement officer co-ordinating the procurement exercise and a declaration/conflict of interest form will need to be completed;
- RD&I offerings which may lead to a contractual relationship and the payment to suppliers for the delivery of goods, services or works

9.2. Preparation of Specification and Process Selection

- In collaboration with all relevant stakeholders it is the End User/Service Manager's responsibility to ensure as detailed a specification for the goods or services being Tendered is prepared in advance of the Trust inviting a competition whether Local Tender, Mini Competition on a Framework, or Full OJEU.
- This specification must be sufficiently generic as to ensure that a meaningful transparent competition can be run. The specification must not contain brand names or refer to a specific piece of equipment by name/manufacturer.
- The value and scale of the Procurement will determine the process to be used. These include local tender if greater than £50,000 but less than EU threshold (total contract value), Framework Mini Competition if over EU threshold (total contract value) but covered under an approved Framework (this may also enable Direct Award with no requirement for a competition), and one of the OJEU Processes available e.g. Open (no selection phase used – procedure mainly used when there is limited competition in the marketplace), Restricted (a selection phase is used – procedure mainly used where there is lots of competition in the marketplace), Competitive Negotiated Procedure. (Please note that the current OJEU processes and procurement regulations are currently under review following BREXIT, This policy will be amended accordingly to ensure the most up to date information is available).
- All tendering paperwork including specification, weighting and scoring criteria must be fully completed/ agreed before the publication of any contract notice/ advertisement of business opportunity.
- For all under OJEU threshold tendering exercise and where a mini competition from a framework or direct award is not used, the open tendering procedure is to be used.
- Any prior market engagement should be undertaken ahead of the commencement of the procurement process (with Procurement involvement). Pre-market engagement can be beneficial for organisations in understanding the current market, providers

available and horizon scanning to ensure the latest technologies are considered as part of the procurement exercise. The procurement team can support with Prior Information Notices (PIN's) to provide the market with advanced notice of a potential and upcoming procurement.

9.3. Scoring Criteria and Weighting

- The trust will use the standard Department of Health (DH) tender paperwork wherever possible.
- Evaluations are to be carried out on the most economically advantageous criterion otherwise known as MEAT. This method of evaluation enables the contracting authority to take account of criteria that reflects qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision.
- The Trust may choose to use specific questions which may eliminate potential bidders on for example capacity, experience, or technical capability. These must be clearly stated in the tender documents as being Pass or Fail criteria. Such questions are usually used when employing the Restricted and Competitive Negotiated processes but can be applied to any tender competition.
- Evaluation criteria listed must be relevant to the subject matter of the contract and be proportionate for the contract.
- In any tender format the Trust must advise potential bidders in the tender documentation how their bid will be scored. The ITT (Instructions to Tenderers) must set out clearly the scoring basis, and the number of points or weighting given to each question, and section within the bid. This may cover a single or multi stage process dependent upon the scale and complexity of the procurement being conducted.
- In setting Scoring and Evaluation Criteria the recommended range for the two principal elements are as follows;
- Price 70%-30%
- Quality and Technical 70%-30%

The weighted criteria must also be broken down into any sub-criteria applied as demonstrated in the example below:

MEAT	Overall Weighting	Category	Category Weighting	Element	Element Weighting	
Price	30%	Commercial	30%	Cost/Competitiveness	30%	
Quality	70%	Technical	20%	Capability	10%	
				Resources	10%	
				Service Delivery	30%	Flexibility & Responsiveness
		Communication	10%			
		Social Value Offerings	10%			
		Quality	20%	Quality	Customer Care	5%
					Quality of Service	10%
					Innovation and added value	5%
			100%		100%	

9.4. Invitation to Tender (ITT)

- A procurement Notice has to be placed in a specific format on the find a tender website (for above threshold procurements) and should only be submitted by the Procurement Department. This will be placed electronically and the tender process and documents managed through the E Procurement portal;
- Where a local tender is permitted an advert and the tender documents will be placed via the trusts e-tendering portal as an under threshold procurement, this is not always required where a mini competition from a framework or direct award is used;
- There is also a requirement for all tenders over the value of £50,000 including those over the public contract threshold to also be advertised and awarded on the contracts finder portal;
- Where a Mini Competition on an existing framework agreement is being used this will be co-ordinated by the Procurement Team, or the owners of the Framework. In both cases the processes will be managed only by Procurement using E Procurement processes;
- All bidders for all tender types will communicate and return tenders through the same E-Procurement process/portal, this includes all clarification questions;
- The timetable for the procurement should be detailed in the tender documentation subject to modification. When the Trust employs one of the public procurement processes certain aspects of that process have prescribed minimum deadlines which must be observed. When the Trust employs an under threshold procurement process it must still allow reasonable time for bidders to respond according to the scale and complexity of the tender;
- All respondents to any ITT should be evaluated for technical ability and financial viability against the criteria in those categories detailed in the ITT supplier questionnaire using such specialist internal or bought-in advisors as required;
- All tenders should state that any awarded contract will be performed under the standard NHS Terms and Conditions and in compliance with the tender specification and schedules set out in the contract documentation;;
- In the event that a potential bidder requests access to the Trust premises or stakeholders to assist in the compilation of their bid (e.g. for a site assessment when bidding for refurbishment works) such access must also be offered to all potential bidders;
- If it is a requirement of the bid process that Trust stakeholders wish to undertake site visits to potential supplier premises or reference sites or ask the bidders to attend a presentation session/participate in a trial period then the opportunity to facilitate such visits/sessions/trials must be open to all bidders. If such visits/presentations/trials etc. are to be scored then potential bidders must be notified in advance of the criteria and weighting, and the visit/presentation/trials documented accordingly;
- All points of clarification (where not specifically relating to an individual tenderers bid) must be communicated out to all bidders to ensure the transparent and equal sharing of information to all;
- All clarification questions must be requested and answered via the e-tendering portal to demonstrate consistent information is communicated to all bidders.

9.4.1 The Receipt of Tender Documents:

- All tenders directly managed by the Trust will be handled through the Trust's chosen E Procurement portal;
- All bids for all tenders will be received via that medium in the form of a "Locked Down" Request for Tender or Quote which can only be opened electronically by Authorised Officers (verifiers) after the bid deadline has closed;
- The E Procurement portal will provide a full audit trail around access and viewing of the bid process by the participating officer;

9.4.2 The Opening of tenders

To ensure tender documents are opened in accordance with rules that ensure probity and demonstrate that all tenders are treated equitably, the following instruction must be followed:

- All documents must be electronically opened at the same time;
- Documents must be opened electronically by an approved verifier, independent to the procurement department.

9.4.3 Rules of Acceptance and Record of Formal Tenders

- The Trust will use an E Procurement web portal for the management and receipt of all tenders. Tenders cannot be received after the due time and date via the E Procurement system. The Trust recognises that under certain exceptional circumstances a systems failure at either the potential supplier or the Web Portal Host may prevent the submission of a bid. In the event that such circumstances prevail it will be at the discretion of the Chief Executive or their nominated officer to extend the deadline for submission, or permit an alternate electronic submission. In these circumstances no bid will be opened until it is certain that all bids have been received;
- Incomplete tenders (i.e. those from which information necessary for the adjudication of the tender is missing) and amended tenders (i.e. those amended by the tenderer upon his own initiative either orally or in writing after the due time for receipt) should be reported to The Evaluation Team who will decide to accept or reject the bid;
- Where examination of tenders reveals errors, which would affect the tender figure, the tenderer is to be given details of such errors and afforded the opportunity of confirming or withdrawing his offer;
- Necessary discussions with a tenderer of the contents of his tender, in order to elucidate technical points before the award of a contract, need not disqualify the tender;
- All tenderers must be treated fairly and consistently, all points of clarification raised by the trust around supplier bids and submissions must be communicated through the e-tendering portal and all supplier responses must be received via the e-tendering portal;
- Where only one tender/quotation is received the Trust shall, as far as practicable, ensure that the price to be paid is fair and reasonable;
- All tenders should be treated as confidential and should be retained for inspection for a minimum of 5 years or where contracts extend beyond 5 years at least one year beyond contract termination.

10. Evaluation and Award

The Public Contract Regulations gives consideration to unsuccessful bidders who may bring cases against an organisation if they feel a procurement exercise has not followed due process. This can lead to a legal challenge and the contract being rendered ineffective. It is therefore important that a robust audit trail throughout the whole tender exercise (including evaluation and award stage) is maintained.

10.1. Rules

- The constitution of the Evaluation Panel shall be the user(s) including but not limited to (clinical staff, consultants, and business managers), a procurement officer, an accountant and any specialist advisers or consultants appointed by the Trust. An initial meeting of the Evaluation Panel will determine the responsibilities of the participants and the requirements of the process including the specification. The individuals involved must complete a technical evaluation for all items of equipment

- or other goods, following full product testing or site visits, and these will be collected and collated by the Procurement Team for presentation at the final evaluation panel;
- Assessment criteria must be kept as a permanent record with the tenders;
 - Once the tenders have been received and opened in accordance with the tendering procedures, the appropriate users and technical advisers will undertake individual analyses of the submissions;
 - Each bid stage will be checked for compliance and for satisfactory answers to designated mandatory and discretionary exclusion criteria and any pass/fail Questions;
 - Where a presentation is being used as part of the tendering process this should have the criteria for assessment set in advance for the purpose of scoring potential suppliers;
 - Each bid will be evaluated and scored according to the quality criteria set out in the ITT Documents and /or SQ Documents where an over threshold Procedure other than “Open” is being used, scoring should be carried out by individual panel members and then collective scores brought together via procurement;
 - The Procurement and Finance leads will undertake the financial elements and scoring;
 - All technical and financial scores must be consolidated and weighted by the procurement team (in-line with the pre- published criteria);
 - A moderation meeting will be conducted where there are variances in suppliers scores awarded by evaluation panel members to agree a general consensus score/seek further clarity on suppliers bids where required;
 - The evaluation panel should recommend the Most Economically Advantageous Tender arising from the tender scoring process as advertised as the overall criteria for selection;
 - The panel must also pay attention to the financial viability, resources and technical abilities of the companies on the shortlist. The panel must satisfy itself that there is appropriate competent technical advice to inform their decision;
 - Following the successful sign off of the recommendation report (Reg 84 reports) are required for all procurements subject to the PCR 2015, procurement will advise all Bidders via the E Procurement web portal of the Trust’s intention to award. Where an over threshold process has been used this will immediately invoke a ten day calendar standstill period (Alcatel) and the winning tenderer will receive an intention to award letter, whilst the unsuccessful suppliers will be notified of the result. During the standstill period no contract can be commenced and unsuccessful bidders will be provided with detailed feedback on their bid and the reasons for rejection. The Trust must provide as much information as possible without compromising the potential winner’s commercial confidentiality and intellectual property. It is important that all these communications come directly from the procurement team only;
 - At the end of the ten day standstill period and provided there has been no legal challenge the trust may openly award the contract to the successful bidder;
 - The Trust will use the ten day cooling off period for tenders that fall in the under threshold exercises as best practice;
 - If an OJEU process has been used the Procurement Department must post an Official OJEU Award Notice within 48 days;
 - The Procurement Department will facilitate the signing of the Contract Documents with the successful supplier. The lead user is responsible for inputting the requisition onto the electronic system and ensuring that it is authorised in accordance with the Trust’s authorisation procedures.

10.2. VEAT Notices

- Where the Trust has used the Negotiated without Call for Competition Procedure as it believes that the Goods or Services it wishes to Contract can only be provided by one particular supplier it may choose to publish A Voluntary “ex Ante” Transparency Notice. This is a form of OJEU Notice which process is managed by the Procurement Team and which gives the Trust protection against challenge of award if not contested within 10 working days of publication.
- These notices must only be used in exceptional circumstances where there is certainty that there is no other form of competition for those particular goods or services as per SFI conditions.

10.3. Signing of Contracts/ Keeping of Records

All Contracts with external suppliers must be signed by the relevant person as identified within the SORD. Copies of ALL contracts must be sent to the procurement department. A contracts register will be maintained by the procurement team.

11. Equality and Diversity

The Equality Act 2010 now includes a new public sector equality duty which replaces separate duties and in view of this amendments and additions have been introduced, one of which is relating to procurement.

The Trust is legally responsible for complying with the general equality duty in its timing and undertaking of procurement. Although there is no explicit specific duty relating to procurement, Public Authorities covered by the specific duties will however have to ensure that they meet those duties in relation to all of their functions, including any that are contracted out. Incorporated within our current tender packs, there is a document which requests specific information regarding Equal Opportunities from companies. As a minimum the Trust must now include contract conditions which:

- Prohibit the contractor from unlawfully discriminating under the Equality Act;
- Require then to take all reasonable steps to ensure that staff, suppliers and subcontractors meet their obligations under the Equality Act.;

Therefore in view of the above it is imperative that departments abide by the Procurement and Tendering policy to ensure that Procurement achieve their duties.

12. Training

- Training sessions will raise awareness with Stakeholders and Budget Holders;
- E-Procurement system training can be provided at any time, procurement should be contacted to arrange;
- Procurement guidance will aim to be included in Trust Induction during the life cycle of this policy version.

13. Monitoring

- Will be the responsibility of the Officers named in Section 4 and the Procurement Team;
- The Associate Director of Procurement will update this policy in line with any amended national guidance following the conclusion of the procurement green paper consultation. Conclusion of the consultation may result in alternative procurement processes being implemented, these are currently still under consideration (April 21)

14. References

- The Public Contracts Regulations 2015 ;
- Contracts Finder – Gov.uk
- The Bribery Act 2010;
- The Equality Act 2010;
- The Freedom of Information Act 2000;
- The Official Journal of The European Union (OJEU);
- “Better Procurement Better Value Better Care: A Procurement Development Programme for the NHS” Department of Health August 2013.

14.1. Supporting Policies/Documents

- The Walton Centre NHS Foundation Trust Standing Financial Instructions (SFI’s);
- The Walton Centre NHS Foundation Trust Scheme of Reservation and Delegation (SORD);
- The Walton Centre NHS Foundation Trust Standing Orders;
- Medical Devices Policy
- Trust Representatives Policy;
- Gifts & Hospitality Policy.

Appendix 1 - Equality Impact Assessment (EIA) Form

For the purpose of this form 'document/activity' will refer to policies, procedures, strategies, projects, CIPs and service changes. For further support please refer to the EIA Guidance on the Equality and Diversity section of the Intranet.

Part 1 must be completed for **all** documents/activities when created, updated or reviewed. This must be done at the **development stage** i.e. before ratification or approval.

Part 2 must be completed only where the proposed document/activity will have an impact and further consultation is needed.

Part 1	
1. Person(s) Responsible for Assessment: [REDACTED] Associate Director of Procurement	2. Contact Number: [REDACTED]
3. Department(s): Procurement	4. Date of Assessment: 10.05.2021
5. Name of the policy/procedure being assessed: Procurement & Tendering Policy	
6. Is the policy new or existing?	<input checked="" type="checkbox"/> New <input type="checkbox"/> Existing
7. Who will be affected by the policy (<i>please tick all that apply</i>)?	
<input checked="" type="checkbox"/> Staff	<input type="checkbox"/> Patients <input type="checkbox"/> Visitors <input type="checkbox"/> Public
8. How will these groups/key stakeholders be consulted with?	
Policy circulated to department heads for comment	
9. What is the main purpose of the policy?	
To provide staff information on procurement and tendering responsibilities and regulations	
10. What are the benefits of the policy and how will these be measured?	
Educating staff involved in procurement and tendering activity of rules, regulations and requirements, regular contact with procurement team to test understanding of policy.	
11. Is the policy associated with any other policies, procedures, guidelines, projects or services? Yes - Trust SFI's, SORD and Trust Reps Policy	
12. What is the potential for discrimination or disproportionate treatment of any of the protected characteristics? N/A	

Protected Characteristic	Positive Impact (benefit)	Negative (disadvantage or potential disadvantage)	No Impact	Reasons to support your decision and evidence sought	Mitigation/adjustments already put in place
Age			X		
Sex			X		
Race			X		
Religion or Belief			X		
Disability			X		
Sexual Orientation			X		
Pregnancy/maternity			X		
Gender Reassignment			X		
Marriage & Civil Partnership			X		
Other			X		

12. If you have identified no negative impact for all please explain how you reached that decision and provide reference to any evidence (e.g. reviews undertaken, surveys, feedback, patient data etc.)

13. Does the policy raise any issues in relation to Human Rights as set out in the Human Rights Act 1998? *See Guidance for more details (NB if an absolute right is removed or affected the policy will need to be changed. If a limited or qualified right is removed or affected the decision needs to be proportional and legal).*

If you have identified negative impact for any of the above characteristics, and have not been able to identify any mitigation, you **MUST** complete Part 2, please see the full EIA document on the Equality and Diversity section of the Intranet and speak to the HR ED&I Lead for further support.

Action	Lead	Timescales	Review Date

Declaration

I am satisfied this document/activity has been satisfactorily equality impact assessed and the outcome is:

No major change needed – EIA has not identified any potential for discrimination/adverse impact, or where it has this can be mitigated & all opportunities to promote equality have been taken



Adjust the policy – EIA has identified a need amend the policy in order to remove barriers or to better promote equality

You must ensure the policy has been amended before it can be ratified.



Adverse impact but continue with policy – EIA has identified an adverse impact but it is felt the policy cannot be amended.

You must complete Part 2 of the EIA before this policy can be ratified.



Stop and remove the policy – EIA has shown actual or potential unlawful discrimination and the policy has been removed



Name: [Redacted]

Date: 10.05.2021

Signed: [Redacted]

Appendix 2 - Policy approval checklist

In order for this policy to be approved, the reviewing group must confirm in table 1 below that the following criteria is included within the policy. Any policy which does not meet these criterion should not be submitted to an approving group/committee, the policy author must be asked to make the necessary changes prior to resubmission.

Policy review stage

Table 1

The reviewing group should ensure the following has been undertaken:	Approved?
The author has consulted relevant people as necessary including relevant service users and stakeholders.	Yes
The objectives and reasons for developing the documents are clearly stated in the minutes and have been considered by the reviewing group.	Yes
Duties and responsibilities are clearly defined and can be fulfilled within the relevant divisions and teams.	Yes
The policy fits within the wider organisational context and does not duplicate other documents.	Yes
An Equality Impact Assessment has been completed and approved by the HR Team.	Yes
A Training Needs Analysis has been undertaken (as applicable) and T&D have been consulted and support the implementation	Yes
The document clearly details how compliance will be monitored, by who and how often.	Yes
The timescale for reviewing the policy has been set and are realistic.	Yes
The reviewing group has signed off that the policy has met the requirements above.	Yes
Reviewing group chairs name:	Date:

Policy approval stage

<input checked="" type="checkbox"/> The approving committee/group approves this policy. <input type="checkbox"/> The approving committee/group does not approve the policy.	
Actions to be taken by the policy author:	
Approving committee/group chairs name: [REDACTED]	Date: June 2021

Translation Service

If you require this leaflet in any other language or format, please contact the [REDACTED]

stating the leaflet name, code and format you require.

Arabic	إذا كنت بحاجة إلى هذه النشرة بأي لغة أو تنسيق آخر، فيرجى الاتصال بفريق متابعة تجارب المرضى على الرقم [REDACTED]، أو إرسال بريد إلكتروني إلى [REDACTED]، موضحاً اسم النشرة، والرمز، والشكل الذي تطلبه.
Chinese	如果你想索取本传单的任何其他语言或格式版本，请致电 [REDACTED] 联络「病人经历组」，或发电邮至 [REDACTED] 说明所需要的传单名称、代码和格式。
Farsi	شماره با بیمار تجربه تیم با لطفاً دیگری زبان یا هر فرم به بروشور این به نیاز صورت در [REDACTED] بگيرد زیر تماس ایمیل با یا ۳۰۹۳ یا [REDACTED] خود نیاز مورد قالب و کد، بروشور نام ذکر با
French	Si vous avez besoin de ce dépliant dans une autre langue ou un autre format, veuillez contacter Patient Experience Team (équipe de l'expérience des patients) au [REDACTED] ou envoyez un e-mail à [REDACTED] en indiquant le nom du dépliant, le code et le format que vous désirez.
Polish	Jeśli niniejsza ulotka potrzebna jest w innym języku lub formacie, należy skontaktować się z zespołem ds. opieki nad pacjentem (Patient Experience Team) pod numerem telefonu [REDACTED], lub wysłać wiadomość e-mail na adres [REDACTED], podając nazwę ulotki, jej kod i wymagany format.
Punjabi	ਜੇ ਤੁਹਾਨੂੰ ਇਹ ਕਿਤਾਬਚਾ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਜਾਂ ਫਾਰਮੈਟ ਵਿੱਚ ਜ਼ਰੂਰੀ ਹੈ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਪੇਸ਼ੋਟ ਐਕਸਪੀਰੀਅਸ ਟੀਮ ਨਾਲ [REDACTED] 'ਤੇ ਸੰਪਰਕ ਕਰੋ ਜਾਂ [REDACTED] 'ਤੇ ਈਮੇਲ ਕਰੋ ਅਤੇ ਪਰਚੇ ਦਾ ਨਾਮ, ਕੋਡ ਅਤੇ ਆਪਣਾ ਲੋੜੀਂਦਾ ਫਾਰਮੈਟ ਦੱਸੋ।
Somali	Haddii aad u baahan tahay buug-yarahan oo luqad kale ku qoran ama isaga oo qaab kale ah, fadlan Kooxda Waayo-arragnimada Bukaanka kala soo xiriir [REDACTED] ama [REDACTED], ama email-ka [REDACTED] oo sheeg magaca iyo summadda buug-yaraha iyo qaabka aad u rabtid.
Urdu	اگر آپ کو یہ کتابچہ کسی دیگر زبان یا شکل میں درکار ہو تو، براہ کرم پیشنت ایکسپیریئنس ٹیم سے [REDACTED] پر ای میل کریں۔
Welsh	Pe byddech angen y daflen hon mewn unrhyw iaith neu fformat arall, byddwch cystal â chysylltu gyda'r Tîm Profiadau Cleifion ar [REDACTED], neu ebostiwch [REDACTED] gan nodi enw'r daflen, y cod a'r fformat sydd ei angen arnoch.