



NHS gets serious about procurement

On 5 August 2013, the Department for Health published the report: *“Better Procurement, Better Value, Better Care: A Procurement Development Programme for the NHS”*.

The report outlines procurement efficiencies and strategies that will be widely implemented across the NHS. The report will no doubt be under careful consideration by all NHS trusts and should also be reviewed by any commercial organisation that deals with/supplies the NHS. The report outlines the need for the NHS to make £1.5bn of procurement savings in the next three years with the stated goal: *“for the NHS to have a modern, world-class procurement capability in place by 2017”*.

The NHS is subject to the Public Contracts Regulations 2006 and also the recent NHS specific Procurement, Patient Choice and Competition Regulations (see further below) when procuring goods and services. The Public Contracts Regulations are themselves due to be amended following European law developments, perhaps as early as 2014.

NHS Procurement - the numbers

- £20bn spent every year on goods and services (around 30% of the operating costs of each hospital) including:
- £4.5bn on clinical supplies and services;
- £5.5bn on drugs and pharmacy;
- £2.4bn on contract and agency staff;
- £1.3bn on non-clinical supplies and services;
- £1bn on administration such as printing, stationery and telephones.

The numbers are huge and the report makes suggestions on how small adjustments coupled with an executive led top-down approach could save millions, even billions of tax payer money and ultimately lead to better front-line services.

The current NHS procurement problem

The report identifies the main problem in modern NHS procurement as a lack of consistency of approach. It states that across the NHS there are far too many different solutions to the same problem, at widely different cost and a perception that anyone in the NHS can buy anything at any time and at any price. In his foreword, the Parliamentary Under-Secretary of State for Health, Dr Dan Poulter MP states:

“We need to radically improve our procurement capability, raising and maintaining it to world-class standards.”

The key areas of reform

Transparency is the main theme of the report and it stresses the need for trusts to learn from each other and share experiences. For example, some trusts have recently switched suppliers of basic medical gloves from the brand leader to a comparable product and saved £900K between them. If all the NHS switched suppliers, the report states that the saving would be c.£5m. The report outlines other similar “easy win” examples.

However, the problem is reportedly much wider than a few easy wins and in order to deliver transparency, there will be a new structure to NHS procurement delivered through a new Procurement Development Programme. There will be a new NHS Procurement Development Oversight Board involving ministers, non-executive directors and the newly created “Procurement Champion”. The Procurement Champion will chair his/her own NHS Procurement Development Delivery Board and implement four integrated initiatives:

- **Delivering immediate efficiency and productivity gains** (for example roll out of savings such as the medical gloves). A simple price comparison system will be set up to aid different trusts.
- **Improve data, information and transparency.** An “e-procurement strategy” will be published in September 2013 and GS1 Coding will be mandatory for the NHS. This should make it easier for trusts to compare procurement data.

- **Improving Outcomes at reduced cost through clinical procurement review partnerships.** The key to this initiative is to make sure that clinicians and budget holders are fully equipped with all the information needed to deliver value for money when buying medical devices.
- **Improve leadership and capability.** This will happen at national, regional or trust group level and local level.
- **Increased contribution to economic growth** by making sure the NHS supports SMEs, streamlines procurement procedures and is responsive to innovation from industry.

What does this mean?

Although it cannot be certain that positive change will be achieved, procurement at the NHS has gone up the agenda and it is clear that past approaches will no longer be tolerated. Suppliers should start to see a more professional and joined up approach across trusts in the coming years and will need to respond with its own solutions. This could provide both significant opportunity and commercial pressure for suppliers. The benefits to the NHS are obvious; money saved can be re-invested where possible into improved front line services.

The National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 (SI 2013/500)

In procurement, the NHS is subject to the Public Contracts Regulations 2006 and also the recent NHS specific Procurement, Patient Choice and Competition Regulations. The Regulations set out specific rules the NHS must follow and how Monitor (sector regulator) can enforce and investigate complaints, which can be a useful and less expensive alternative to Court action. A Monitor consultation has recently closed on a draft version of the enforcement guidance for the Regulations which explains (amongst other things) how Monitor will decide to take action and what action it might take.

The enforcement options open to Monitor under the recent NHS specific Regulations include declarations of

ineffectiveness, the power to demand certain information and documents, and the power to issue directions such as varying or withdrawal of an invitation to tender. This can be contrasted to potential remedies for bidders under the PCR, which can include damages, the set aside of a procurement decision or an ineffectiveness declaration.

Monitor has, so far, started two investigations under the Regulations, the most recent a complaint by the University Hospital of South Manchester NHS Foundation Trust and Stockport NHS Foundation Trust concerning the commissioning of cancer surgery services in Greater Manchester by NHS England.

With the implementation of the new Regulations now starting to settle down and the publication of the new Procurement Development Programme, it is certainly an interesting time for the giant that is NHS procurement.

Contacts

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