Procurement Strategy

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1. Introduction

1.1. NHS South Norfolk CCG (CCG) is an NHS Body created as a result of the Health and Social Care Act 2012. The CCG has received authorisation to commission healthcare services on behalf of the registered patients of the 26 GP Practice members of the CCG. This amounts to approximately 239,000 patients.

1.2. The CCG is led by a Governing Body with a GP Chair and a majority of clinicians from various member Practices. The Governing Body also has 2 lay members, a secondary care doctor and a registered nurse.

1.3. The primary purpose and responsibility of the CCG is to commission (plan, purchase and organise) health services on behalf of registered patients of the member Practices. It does this in partnership and collaboration with other commissioners, where appropriate, for health and social care services, as well as with patients and the public.

1.4. All CCG procurement takes place against this context with the intention to secure high quality, safe and cost effective health and social care services for the registered and local populations.

1.5. The CCG has the following Vision, and Values which underpin this Procurement Strategy:

    **Vision**

    - We aspire to deliver the highest quality integrated health care which is appropriate, effective, efficient and sustainable, in order to improve the health and well-being of the whole and diverse population of South Norfolk”

    - We have developed our vision with our Governing Body and our member practices (via our member practice event in April 2012 and through locality meeting dialogue and engagement.) Our vision has been further developed and ultimately agreed by all member practices via the practice representative committee.

    - We have shared our vision with key stakeholders and our patients and communities via our website and various individual meetings and discussions. Over the course of the coming year we plan to further engage patients in the CCGs vision by way of more formal patient events, and through the delivery of the communications and engagement strategy.

    **Values**

    The values have been developed in close consultation with all members and approved at Governing Body and Council of Members meetings. The CCG is committed to:

    - Quality services that are evidence-based, focused on patient safety, with measurable outcomes;
- Financial rigour in the planning, commissioning and on-going review of provision;
- Inclusion of patients and affected others across all elements of clinical commissioning, with particular emphasis on hard to reach groups;
- Locally-led clinical commissioning, placing our member Practices, stakeholders and our patient population at the heart of every decision we make.

2. Purpose

2.1. This Procurement Strategy sets out how the CCG will develop its procurement activities. It does not set out the detailed procurement processes or approval routes as these will be covered by the CCG’s governance, Standing Financial Instructions and procurement policies and procedures.

2.2. This procurement strategy has been designed to support the CCG by showing an understanding of the current requirements and guidance for procurement activities of NHS Bodies.

2.3. The strategy will also ensure that the CCG meets its legal duty with regard to compliance with the Public Procurement Regulations 2006.

2.4. Failure to comply with the CCG’s SFIs and EU procurement directives can be regarded as a disciplinary matter that could result in dismissal. It may also lead to a procurement exercise having to be re-tendered. It is a corporate offence under the Bribery Act 2010 for an organisation to fail to prevent active bribery (i.e. promising or giving a financial or other advantage) by not having adequate preventative procedures in place. (See 9.7). The matter will also be investigated by the Local Counter Fraud Specialist and may result in criminal proceedings being commenced.

3. Legal Framework

3.1. The Health and Social Care Act 2012, and the associated NHS (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 provide the framework for procurement of health care services by the CCG. When procuring health care services, the 2013 Regulations require NHS commissioners (CCGs and NHS England) to act with a view to (a) securing the needs of the people who use those services (b) improving the quality of services and (c) improving efficiency in the provision of the services. The 2013 Regulations require commissioners to procure services from providers who are most capable of delivering these objectives and who provide best value for money in doing so. The Regulations also prohibit commissioners from engaging in anti-competitive behaviour unless this is in the interests of patients.

3.2. Monitor – the sector regulator for health services in England – has the role of protecting and promoting the interests of patients and has been granted powers to set and enforce a framework of rules for providers and commissioners. Monitor has published its ‘Substantive Guidance on the Procurement, Patient Choice and Competition Regulations’ (December 2013) (“Substantive Guidance”) designed to
support CCG’s and NHS England. Monitor’s Substantive Guidance makes it clear that it is for commissioners to decide which services to procure and how best to secure them in the interests of patients.

4. How the CCG will work

4.1. In line with vision, mission and values, the CCG will work in partnership with patients, carers and families, partner organisations across public, voluntary and private sectors to develop high quality, safe and cost effective locality based services.

4.2. The CCG will hold providers of services to account for the quality, safety and performance of their services. The CCG expects local providers to aspire to be the best in their field and to involve and seek feedback on a regular basis from local patients and carers.

4.3. The CCG will be held to account by NHS England and Local Health & Wellbeing Boards as well as local patients and partner organisations for commitments it has entered into.

4.4. The CCG will be open and transparent on our decision making and regularly hold meetings of our Governing Body in public and in different locations to improve access for people.

4.5. The CCG takes conflicts of interest very seriously and will ensure that all conflicts or potential conflicts are declared and managed accordingly (See Section 9.3). This not only applies to our Governing Body, Council of Members and staff but we will also ensure that where necessary any provider or supplier openly declare any conflict of interest or potential conflict of interest when contracts are being negotiated, tendered for or entered into.

4.6. The CCG welcomes constructive feedback and suggestions on ways that the CCG can improve its commissioning and integration of services for the benefit of local people and to improve their outcomes of care.

4.7. The CCG will engage with members of the public and its resident patient population in accordance with the principles set out in the CCG’s Communications and Engagement Strategy.

4.8. The CCG wishes to ensure our commissioning and contracting is based on clearly assessed population needs, clinically led and focuses on achieving improved measurable outcomes of care from integrated services for local patients, carers and their families.

4.9. The CCG will comply with and implement the NHS Constitution, deliver the NHS Mandate locally and respond to the local population’s healthcare needs in a fair and equitable way living within the resources we are allocated.

5. Aims

5.1. This strategy has a number of specific aims:
5.1.1. To ensure engagement with all stakeholders and relevant parties when a procurement is undertaken;

5.1.2. To ensure quality of services are achieved and maintained;

5.1.3. To enable greater choice for patients by expanding the number of qualified providers;

5.1.4. To ensure the CCG achieves value for money in its procurement activities;

5.1.5. To ensure the CCG makes the appropriate decision whether a procurement is necessary;

5.1.6. To manage procurements where there is a potential for conflicts of interest appropriately where members of the CCG may be potential providers;

6. **Principles**

6.1. The following principles will guide the CCG as it develops:

6.1.1. Commissioning and procurement shall be open, fair, transparent and non-discriminatory;

6.1.2. Services are sourced with the active involvement of stakeholders;

6.1.3. The CCG will use providers best placed to meet patient needs;

6.1.4. Services and Goods are sourced competitively where appropriate;

6.1.5. Achieves value for money;

6.1.6. Any Complaints regarding the procurement process are handled correctly via a dispute resolution process.

7. **Approach**

7.1. The CCG recognises that effective engagement with stakeholders is an essential requirement of all NHS organisations and will also offer substantial benefits to the generation of outcome-based service specifications. The CCG will therefore engage with stakeholders at all appropriate times during the commissioning and procurement processes in accordance with the principles set out in the CCG’s Communications and Engagement Strategy.

7.2. Stakeholder engagement, including patient involvement with new and existing providers, and the involvement of members of the public, clinicians and other service users will occur at key points in the service review and procurement processes.

7.3. Input from the above groups, including member Practice Patient Groups (PPGs) which have a wide range of relevant experience, will be used to ensure the views of patients are included in the services being commissioned and the CCG will engage with patients and patient groups to ensure that their views are included.
7.4. The CCG will decide on the most appropriate procurement route on a case by case basis, as set out above and in accordance with the framework of principles set out in Monitor’s ‘Substantive Guidance’ on the 2013 Regulations.

7.5. When making decisions on procurement options, the CCG will work with commissioning partners and will seek to ensure that the final decision complies with relevant legislation and regulations.

7.6. The procurement approach will be proportionate to the likely contract value and the commissioning objectives.

7.7. Further guidance in relation to the EU principles and national legislation and how they apply to a specific case may be required and, where relevant, guidance will be sought from the identified Commissioning Support provider, who will be able to provide access to appropriate legal or other specialist advice on these issues, if considered necessary.

7.8. Any decision taken by the CCG to procure services without a competitive tender will be clearly explained by the CCG, documented and discussed/approved by the Governing Body.

8. Procurement Process

8.1. The CCG will apply the principles and rules set out in the EU Procurement Directives and the Public Contracts Regulations 2006, which detail the rules that public bodies must follow for the procurement of goods and services.

8.2. The general principles of the EU Procurement Directive are:-

8.2.1. Transparency - Opportunities will be advertised on Supply2health and OJEU Evaluation processes, award criteria and decisions regarding procurement will be published. Any conflicts of interest will be declared and managed.

8.2.2. Equal treatment - Evaluation criteria will be objective, non-discriminatory and carried out in accordance with the published criteria. All parties will have the opportunity to apply for any opportunity the CCG wishes to tender.

8.2.3. Proportionate - The procurement process will not be onerous and will be applied with consideration as to the complexity, risk and value of the service being commissioned.

8.2.4. Non-Discriminatory - All bidders will be treated equally and information will be passed to all at the same time.

8.3. The EU Procurement Directive has two different service types:-

8.3.1. Part A Services to which the full EU Directive applies.

8.3.2. Part B Services which includes healthcare and social services. The full EU Directive does not apply to these but the general principles of transparency, equal treatment, objectivity and non-discrimination apply.
8.4. The procurement of goods is also subject to the full EU Directive

8.5. The CCG will adopt the principles which apply to goods and Part A services for its tendering exercises for Part B services. This will minimise the risk to the CCG of any challenge during the procurement process.

9. Accountability and Authorisation

9.1. At each stage of any procurement the CCG will ensure that the project is authorised in accordance with the CCG’s governance arrangements, which are overseen by the Audit Committee.

9.2. Where the CCG uses external procurement support services, for example the CSU, the final decision on any contract award will be made by the CCG Governing Body or delegated sub committee or Officer in line with the CCG’s operational Scheme of Delegation.

Conflicts of Interest

9.3. The CCG will maintain a register of procurement decisions taken, including the details of the decision; who was involved in making the decision (e.g. governing body or committee members and others with decision-making responsibility); and a summary of any conflicts of interest in relation to the decision and how this was managed by the CCG. The register will form part of the CCG’s annual accounts and will be signed off by external auditors.

9.4. The CCG recognises the importance of managing any conflicts or potential conflicts of interest that may arise in relation to procurement. The Procurement, Patient Choice and Competition Regulations 2013 place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare. The regulations set out that commissioners must manage conflicts and potential conflicts of interests when awarding a contract by prohibiting the award of a contract where the integrity of the award has been, or appears to have been, affected by a conflict; and keep appropriate records of how they have managed any conflicts in individual cases.

9.5. In accordance with the Standards of Business Conduct Policy, CCG staff involved in procurement, their family, or someone known to them stands to benefit personally from awarding the contract, they should declare this immediately. They must declare and record on the Register of Staff Interests any monetary interest (or other relevant personal or professional material benefit) which may influence, (or may be construed by others) to influence their impartiality in the procurement decision making process. Relevant and material interests are defined by the Policy as:

- **Directorships**, including non-executive directorships held in private companies or PLC’s (with the exception of those of dormant companies);
- **Ownership**, part-ownership or directorship of private companies, businesses or consultancies likely or possible seeking to do business with the NHS;
- **Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS**;
- **A position of authority in a charity or voluntary organisation in the field of health and social care**;
• Any connection with a voluntary or other organisation contracting for NHS services or commissioning NHS services;
• To the extent not covered above, any connection with an organisation, entity or company considering entering into or having entered into a financial arrangement with the CCG, including but not limited to, lenders or banks.

9.6. If staff have any doubt about the relevance or materiality of an interest, this should be discussed with the Head of Corporate Affairs. In any instance where staff wilfully chooses not to inform the Head of Corporate Affairs and is later found to have benefitted personally from the award of a contract the Head of Corporate Affairs will seek to follow the CCG disciplinary procedure and the matter may also be referred to the Local Counter Fraud Specialist for investigation.

**Bribery and Corruption**

9.7. Where a buyer believes they are being offered a bribe by a supplier they should immediately raise it with the Head of Procurement and put on hold the procurement. The matter must also be reported to the Local Counter Fraud Specialist.

9.8. The CCG has a clear Standards of Business Conduct Policy, which includes a zero-tolerance approach to bribery. The CCG stance is equally strong in relation to those associated with, or contracting with the CCG, and we avoid doing business with any individuals and organisations who fail to demonstrate their commitment to operate fairly, openly and honestly. At all times, the Bribery Act 2010 should be given due consideration.

Additional guidance on this issue is available from NHS Protect within their document 'Pre-contract procurement fraud and corruption – guidance for prevention and detection – March 2013.

All those involved in procurement should be aware that the Bribery Act 2010 replaces offences referred to in common law and in the Prevention of Corruption Acts 1889-1916. In broad terms, offences covered by the Bribery Act 2010 include:

(a) two general offences of bribery: (1) offering or giving a bribe to induce someone to behave, or to reward someone for behaving, improperly; and (2) requesting or accepting a bribe either in exchange for acting improperly, or where the request or acceptance is itself improper;

(b) the new corporate offence of negligently failing by a company or limited liability partnership to prevent bribery being given or offered by an employee or agent on behalf of that organisation; and

(c) bribing a foreign official.

All those involved in procurement must be aware of the Bribery Act 2010 and must ensure that all dealings with other organisations and their staff do not breach the requirements of that Act; such breaches will be reported to, and investigated by, the Local Counter Fraud Specialist and could result in criminal proceedings being commenced.
10. Complaints and Dispute Resolution
The CCG will have in place a Competition Dispute Resolution process to hear any complaints from organisations who consider that the CCG has not complied with this Strategy, or any of the CCG’s applicable Policies Procedures.

11. Environmental and Sustainability Issues
The CCG recognises that it as an organisation is responsible for environmental and sustainability issues and will produce policies for these which will consider the impact of procurement activities on both the social and economic environment. This will enable goods and services to be sourced in a sustainable and environmentally friendly way.

12. Guidance and Training
The CCG has based this strategy on the following guidance:

- Substantive guidance on the Procurement, Patient Choice and Competition Regulations
- Procurement Guide for Commissioners of NHS Funded Services;
- Principles and Rules for Co-operation and Competition
- Protecting and Promoting Patients Interests; the Role of Sector Regulation
- Code of conduct, managing conflicts of interest where GP Practices are potential providers if CCG commissioned services.
- Managing conflicts of interest: Guidance for clinical commissioning groups.

13. Review
The Strategy will be reviewed on an annual basis or earlier if required by changes in local or national requirements.