**Procurement Policy**

**February 2025**

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**The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as ‘uncontrolled’ and as such may not necessarily contain the latest updates and amendments.**

**POLICY AMENDMENTS**

Amendments to the Policy will be issued from time to time. A new amendment history will be issued with each change.

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# Introduction

The NHS Humber and North Yorkshire Integrated Care Board (ICB) is committed to procuring services that improve the health across our local community.

This policy is a key governance document for NHS Humber and North Yorkshire ICB and supports the Standing Financial Instructions and is aligned to the Operational Scheme of Delegation. The Procurement Policy sets out how NHS Humber and North Yorkshire ICB undertakes procurements and the associated decision making with regard to the relevant legislation, particularly the Provider Selection Regime and the Procurement Act 2023.

# Purpose

The purpose of this policy is to provide NHS Humber and North Yorkshire ICB with a document that describes how to approach procurement considerations, decision making, and processes to ensure that the contracts agreed by NHS Humber and North Yorkshire ICB are robust and have regard to the relevant legislation, regulations and guidance.

This policy also describes the wider context for procurement and contracting decisions such as patient and public engagement and involvement as well as signposting to specialist technical support from within the NHS Humber and North Yorkshire ICB team.

# Definitions / Explanation of Terms

|  |  |
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| Conflict of Interest | A situation where individuals have a direct or indirect financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the procurement process. |
| Contract | A binding agreement between two or more parties. |
| Engagement | Individual or collective feedback from service users to inform, influence and improve future provision. |
| Framework Agreement | An ‘umbrella’ agreement between one or more buyers and a single supplier or multiple suppliers. |
| Procurement | Procurement activities include identifying and specifying the need, acquiring and managing the supply of goods or services from a third party, purchasing, contracting, contract and supplier management and supply chain management. |
| Provider | As defined by the NHS Standard Contract used for the provision of healthcare services, the party identified to deliver such services. |
| Quotation | An abbreviated version of tender for lower value procurements. |
| Supplier | As defined by the NHS Provision of Services Contract, or Framework Call Off Agreement, used for the provision of non-healthcare service, the party identified to deliver such services. |
| Tender | A document created at the beginning stages of the procurement process. It is a request written by buyers detailing the goods or services that are required and the criteria on which they will award the contract to a supplier or suppliers. |

# Scope of the Policy

The policy applies to NHS Humber and North Yorkshire ICB and all its employees and must be followed by all those who work for the organisation, those on temporary or honorary contracts, secondments, pool staff, contractors, and students.

Non-compliance with this policy could potentially place NHS Humber and North Yorkshire ICB and the individual at risk of legal action.

# Duties / Accountabilities and Responsibilities

**5.1 Chief Executive**

The Chief Executive has overall responsibility for procurement for NHS Humber and North Yorkshire ICB.

**5.2 Executive Directors, NHS Place Directors, Place Finance Directors, Budget Holders**

Have responsibility for procurement and contract approvals in accordance with the Operational Scheme of Delegation and budgetary delegations.

* 1. **Assistant Director of Procurement and Contracts**

Responsible for the administrative co‐ordination of this policy and ensuring members of staff are aware of the policy and processes to be followed.

* 1. **Procurement and Contracts Team**

Responsible for providing specialist technical advice to ensure procurement processes are followed and suitable contract arrangements are in place.

* 1. **Responsibilities of the Procurement Panel**

The Procurement Panel is responsible for managing the pipeline of procurement decisions, ensuring consistency of procurement approach and adherence to procurement principles to ensure contract award recommendations are safe.

* 1. **Responsibilities for Approval**

The Finance, Performance and Delivery Committee will approve this Procurement Policy and any subsequent revisions.

# Procurement Policy Requirements

1. 1. **National Procurement Policy Statement**

The context for procurement by the ICB is set by the [National Procurement Policy Statement](https://assets.publishing.service.gov.uk/media/67ab330e1a116437c7ed88da/E03274856_National_Procurement_Policy_Statement_Elay.pdf) (NPPS) issued by the Cabinet Office on 13 February 2025 and comes into effect on 24 February 2025 alongside the Procurement Act 2023 coming into force.

The NPPS makes clear that achieving Value for Money is the overarching priority in public procurement and that contracting authorities can deliver value for money by:

* driving economic growth and strengthening supply chains by giving small and medium-sized enterprises (SMEs) and voluntary, community and social enterprises (VCSEs) a fair chance, creating high quality jobs and championing innovation;
* delivering social and economic value that supports the Government’s missions including by working in partnership across organisational boundaries where appropriate; and
* ensuring the right commercial capability and standards are in place to procure and manage contracts effectively and to collaborate with other contracting authorities to deliver best value.
  1. **Budget / Funding Availability**

A procurement process should only be commenced when budget or external funding is identified and confirmed available to spend in line with ICB financial approval processes.

* 1. **Financial Thresholds**

For procurements decisions to which a financial threshold applies, the relevant contract value for application of the threshold is the total lifetime contract value inclusive of any applicable Value Added Tax (VAT) regardless of whether the VAT may be reclaimable, also including any planned future phases of work which could be reasonably foreseen to be required to be delivered by a single provider.

Procurements and their subsequent contractual agreements must not be artificially segmented to avoid following the requisite procurement process.

* 1. **Engagement**

The ICB has a statutory duty to involve local people in the decisions we make about their healthcare services.

Engagement activity is a fundamental element of the commissioning (and decommissioning) process for healthcare services and should be undertaken at the very start of any new service development / service redesign, and certainly before any decision relating to procurement is made.

The ICB’s Communications and Engagement Team will provide support and guidance in the development and delivery of engagement / consultation plans.

The completion of the Equality Impact Assessment (via the EIA tool) should be the first stage of any new service development / service redesign process and this will support the identification of those people affected, the scale and scope of any engagement activity, and the most appropriate tools and techniques to be utilised.

* 1. **Conflicts of Interest**

Conflicts of interest occurs when individuals are in a position to be influenced or appear to be influenced by a private or personal interest that could lead to a personal advantage or avoid a personal disadvantage.

Actual conflict of interest exists when, given personal or private interests, an individual is in a position to be influenced or to influence a decision in their favour. Potential conflict of interest exists when personal or private interests puts an individual in a position where they could be influenced or influence a decision in their favour. Finally, perceived conflict of interest exists when personal or private interest exposes an individual to being in a position where they could appear to be influenced or influence a decision in their favour in the undertaking of their duties. In all of these forms of conflict of interest the overriding factor is that the individual’s personal or private interest threatens to compromise a procurement process and decision making.

Private or personal interests that could lead to actual, potential or perceived conflict of interest may include professional and/or social activities and interest with individuals or groups, in addition to family and friends. Personal or private interests can be monetary or non-monetary.

Conflicts of interest exist and are not necessarily wrong or unethical; what is important is to identify any conflicts of interest and manage them. Processes to manage conflicts of interest are built into procurement processes for both ICB employees and other stakeholders as well as for those suppliers seeking contracts with the ICB.

* 1. **Sustainable Procurement**

The NHS is a major employer and economic force both in the ICB and across the country and the ICB recognises the impact of its purchasing and procurement decisions on the regional economy and the positive contribution that can be made to economic and social regeneration.

Wherever possible, and where it does not contradict or contravene procurement principles, the ICB will work to develop and support a sustainable local health economy. The ICB will also consider the wider impact of procurement on communities, particularly the opportunity for additional economic, social and environmental ‘community benefits’ that contribute to delivery of measurable population health benefits and a reduction in health inequalities. Social value is a Key Criterion for the Provider Selection Regime for the procurement of health care services and where appropriate social value clauses will be included in tender documentation and contracts for non-health care services.

* 1. **Procurement of Consultancy Services**

Any proposed procurement of consultancy services that is anticipated to have a contract value in excess of £50,000 requires the submission of a business case to NHS England for approval prior to commencing any procurement process. This is required regardless of the source of funding and is in addition to ICB approval to commit expenditure.

Business Cases must be submitted to NHS England by the Executive Director of Finance and Investment, or other officer duly nominated by them.

The £50,000 threshold applies to the entire contract value including any planned future phases of work which could be reasonably foreseen to be required to be delivered by a single provider. Procurements of consultancy services and their subsequent contractual agreements must not be artificially segmented to avoid undertaking the NHS England business case approval process.

# Procurement of Health Care Services

From 1 January 2024 the Healthcare Services (Provider Selection Regime) Regulations 2023, applies to the procurement of health care services for relevant authorities, including Integrated Care Boards.

The Provider Selection Regime has been designed to give the relevant authorities to which it applies more flexibility in selecting providers for health care services.

**7.1 Scope of the Provider Selection Regime**

Health care services in scope of the regime must fall within one or more of the common procurement vocabulary (CPV) codes, which are set out in Schedule 1 of the Regulations.

In scope are:

* health care services arranged by the NHS e.g., hospital, community, mental health, primary health care services,
* public health services arranged by local authorities e.g., substance use, sexual and reproductive health, and health visitors.

Out of scope are:

* goods e.g., medicines, medical equipment
* social care services
* Non-health care services or health-adjacent services e.g., capital works, business consultancy.

Mixed Procurements which are contracts comprising of a mixture of in-scope health care services and out of scope services or goods are allowable under the Provider Selection Regime when both of the following statements are true:

* The main subject matter of the procurement is relevant health care services which means that the health care service element is more than 50% of the contract value,
* The ICB is of the view that the other goods or services could not be reasonably be supplied under a separate contract.

There are NO financial thresholds in the Provider Selection Regime, therefore if a service is in scope the Regulations have to be applied regardless of contract value or length of contract.

**7.2 Awarding contracts using the Provider Selection Regime**

The Provider Selection regime includes five processes for awarding contracts:

* Direct Award Process A
* Direct Award Process B
* Direct Award Process C
* The Most Suitable Provider Process
* Competitive Process.

**7.2.1 Direct Award Process A**

*Must* be used where there is an existing provider for the services and that provider is the only capable provider.

Services arranged using direct award process A may include, but are not limited to:

* Type 1 and 2 urgent and emergency services and associated emergency inpatient services,
* 999 emergency ambulance services,
* NHS urgent mental health crisis services,
* services established as a commissioner requested services (CRS),
* services provided by NHS trusts designated as ‘essential services’ in their NHS Standard Contract,
* a service that is interdependent with, and cannot realistically be provided separately from, another service which only that provider can realistically provide (e.g., because of a need for cross-specialty or cross-service working).

**7.2.2 Direct Award Process B**

*Must* be used where people have a choice of providers, and the number of providers is not restricted by the ICB. The ICB must have arrangements in place to enable providers to express an interest in providing the health care services in question and offers a contract to all eligible providers.

Services arranged using direct award process B may include, but are not limited to:

* elective services led by a consultant or mental health care professional where patients have a legal right to Choice,
* other elective services where patients do not have a legal right to Choice, but for which ICBs voluntarily offer patients a choice of providers and where the number of providers is not restricted by the ICB through provider selection (e.g., mandatory eye health services, audiology, podiatry services, NHS continuing healthcare services, public health services such as over-forty health checks).

**7.2.3 Direct Award Process C**

*May* be used where:

* the ICB is not required to follow Direct Award Processes A or B, and
* there is an existing provider for the services whose contract is expiring, and
* the existing provider is satisfying the original contract and will likely satisfy the proposed new contract, and
* the services are not changing considerably.

**7.2.4 The Most Suitable Provider Process**

*May* be used where:

* the ICB is not required to follow Direct Award Processes A or B, and
* the ICB does not wish to or cannot follow Direct Award Process C, and
* the ICB is of the view, taking into account likely providers and all relevant information available to the ICB at the time, that it is likely to be able to identify the most suitable provider.

**7.2.5 Competitive Process**

*Must* be used where:

* the ICB is not required to follow Direct Award Processes A or B, and
* the ICB does not wish to or cannot follow Direct Award Process C or the most suitable provider process, and
* the ICB wishes to establish a framework agreement.
  1. **Basic Selection Criteria**

**7.3.1** The ICB may impose on providers certain requirements that are appropriate to ensure that a provider has the legal and financial capacities and the technical and professional abilities to perform the contract to be awarded, which may relate to:

* suitability to pursue a particular activity,
* economic and financial standing,
* technical and professional ability.

**7.3.2** All requirements must be related and proportionate to the subject matter of the contract or framework agreement

**7.4 Key Criteria for Provider Selection Processes**

**7.4.1** There are five key criteria that must be considered when assessing providers under direct award process C, the most suitable provider process, or the competitive process. These are:

• Quality and innovation

• Value

• Integration, collaboration, and service sustainability

• Improving access, reducing health inequalities, and facilitating choice

• Social Value.

**7.4.2** When assessing a provider against the key criteria, all five key criteria must be considered, and none should be discounted. However, the relative importance of the criteria will be agreed within the ICB.

* 1. **Contract Modifications**

**7.5.1** Modifications to contracts are permitted under the Provider Selection Regime if the modification is:

1. Clearly and unambiguously provided for in the original contract.

*If this modification is £500,000 or over and is attributable to the ICB, then a transparency notice must be published.*

1. Solely a change in the identity of the provider.

*If this modification is £500,000 or over and is attributable to the ICB, then a transparency notice must be published.*

1. Made in response to external factors beyond the control of the ICB and the provider, such as changes in patient or service user volume or changes in indexing; but do not render the contract materially different in character.

*If this modification is £500,000 or over and is attributable to the ICB, then a transparency notice must be published.*

1. Attributable to the ICB, does not render the contract materially different in character, and the change in the lifetime value of the contract, compared to its value when it was entered into, is under £500,000 or represents less than 25% of the original contract value.

*A transparency notice is not required.*

1. Attributable to the ICB, does not render the contract materially different in character, and the change in the lifetime value of the contract, compared to its value when it was entered into, is over £500,000 and represents less than 25% of the original contract value.

*A transparency notice must be published in these circumstances.*

1. Made to a contract that was originally awarded under Direct Award Process A or Direct Award Process B and the modification does not render the contract materially different in character.

*If the modification is attributable to the ICB, and the cumulative change in the lifetime value of the contract is £500,000 or more then a transparency notice must be published.*

* + 1. Modifications are not permitted under the Provider Selection Regime, if the modification is attributable to a decision made by the ICB and:
* The changes render the contract materially different in character, or
* The changes are over £500,000 and represent over 25% of the original contract value.
  1. **Urgent Situations**

**7.6.1** There are a small, limited number of occasions where the ICB may need to act urgently in an emergency. Urgent circumstances include where:

* Acting rapidly in an unforeseen emergency that is not attributable to the ICB; local, regional or national crisis. For example, to deal with a pandemic,
* Urgent quality and/or safety concerns that pose risks to patients or service users, and necessitate rapid changes (where it would not be feasible to undertake a provider selection process),
* The existing provider is suddenly unable to operate and a new service provider needs to be identified.
  + 1. The ICB must carry out a full provider selection process once the emergency has passed. If this time period is over 12 months, then a justification must be provided by the ICB.
  1. **Transparency, Publication of Notices and Record Keeping**
     1. The Provider Selection Regime requires the following from ICBs:
* Transparency notices are published when contracts are awarded and in some situations before contract awards are made,
* Detailed evidence is kept of decisions and decision-making processes, which may be required to share with providers if they a representation is received,
* An annual summary is published, which details how many contracts were awarded using each of the provider selection processes.
  + 1. The ICB must keep records of considerations throughout the award process. These records may be requested as part of a review during the standstill period. Records must include:​​
* the relative importance of each of the key criteria and the rationale for their relative importance and how the basic selection criteria were assessed,
* name and address of the provider,
* the decision-making process followed to select a provider,
* the rationale for the decision,
* for mixed procurements, how the procurement meets the requirements for mixed procurement,
* details of the individual/individuals making the decision,
* any declared or potential conflicts of interest for individuals involved in decision making and how these were managed.
  1. **Standstill and Representations**

**7.8.1** When following Direct Award Process C, the Most Suitable Provider Process, and the Competitive Process – following the publication of the Intention to Award a Contract Notice the ICB must observe the standstill period.

* + 1. The standstill is a period of eight working days(which may be extended) during which representations can be made and must be responded to.
    2. The standstill period allows the ICB to consider any representations received and to respond as appropriate. The ICB must allow the provider five working days to consider their feedback before closing the standstill period.
    3. The standstill period should be extended (unless in exceptional circumstances) if the representation is considered by the Provider Selection Regime Review Panel.
    4. The ICB is only obliged to respond to representations if:
* The representation comes from a provider who might otherwise have been a provider of the services to which the contract relates, and
* The provider is aggrieved by the decision of the ICB, and
* The provider believes that the ICB has failed to apply the Provider Selection Regime correctly and they are able to set out reasonable grounds to support their belief, and
* The representation is submitted in writing to the ICB.
  + 1. If a representation is received, then the ICB:
* must ensure that the provider has been afforded the opportunity to explain or clarify their representation,
* is expected to provide an indicative timeframe for when the representation might be considered by,
* must provide any information requested by the provider that the ICB is required to keep,
* must consider the representation(s) made, and review evidence and information used to make the original decision,
* must consider whether the representation has merit i.e., in identifying that process has not been correctly followed,
* must decide whether to return to an earlier step, abandon the process, or award the contract as originally intended,
* must communicate the decision promptly to all interested parties and wait at least five working days before closing the standstill period.
  + 1. Representations received by the ICB will be considered by members of the Board who have not been involved in the contract award decision.
    2. Throughout the standstill period, there should be ongoing communication between the ICB and provider about the representations that were made.
    3. If the provider remains unsatisfied with the response of the ICB to its representation and remains of the view that the Provider Selection Regime has not been applied correctly, the provider may submit a representation to the Independent Procurement and Patient Choice Review Panel. The Panel will review representations made by a provider and will share their advice with the ICB about whether the Provider Selection Regime has been applied correctly.
    4. The standstill period should not be closed (unless in exceptional circumstances), and the contract awarded, until the panel has concluded their review.
  1. **Reporting and Monitoring of Compliance** 
     1. The ICB must publish online, on a publicly available website accessible free of charge, an annual summary of its contracting activity for the provision of relevant health care services.
     2. The annual summary must include:
* the number of contracts awarded in the year to which the summary relates where Direct Award Process A, Direct Award Process B or Direct Award Process C was followed;
* the number of contracts awarded in the year to which the summary relates where the Most Suitable Provider Process was followed;
* the number of contracts awarded in the year to which the summary relates where the Competitive Process was followed;
* the number of framework agreements concluded in the year to which the summary relates;
* the number of contracts awarded based on a framework agreement in the year to which the summary relates;
* the number of contracts awarded and modifications made in reliance on regulation 14 (urgent award or modification) in the year to which the summary relates;
* the number of new providers to whom a contract was awarded in the year to which the summary relates;
* the number of providers who held a contract in the previous year but no longer hold any contracts in the year to which the summary relates;
* the number of written representations and received during standstill periods which ended in the year to which the summary relates and a summary of the nature and impact of those representations.
  + 1. The ICB must:
* monitor its compliance with these Regulations, and
* publish online, on a publicly available website accessible free of charge, an annual report of the results of that monitoring including information as to how any non-compliance will be addressed.

# Procurements of Non Healthcare Services

Where services or goods are required by NHS Humber and North Yorkshire ICB that are outside the scope of the Provider Selection Regime, they fall within the scope of the Procurement Act 2023 and the Procurement Regulations 2024.

***Note that all financial thresholds referred to in this Procurement Policy relate to the full, lifetime value of the contract including VAT if applicable and regardless of whether the VAT may be reclaimable by the ICB.***

The current threshold for the ICB to issue a tender is **£214,904**.

A Central Digital Platform has been developed for suppliers to register their interest in public procurements and for contracting authorities such as the ICB to publish their tenders.

The Procurement Act 2023 includes definitions of Excluded and Excludable suppliers and a Debarment List will be in force which the ICB will need to make reference during its procurements.

**8.1** **Procurement Act 2023 Covered Procedures (over-threshold)**

**8.1.1 Open Procedure**

This is a single stage procurement, any supplier can submit a tender.

The ICB is required to have regard to barriers for small and medium sized enterprises and whether the procurement can be reasonably split into Lots, if it cannot be split an explanation must be given.

**8.1.2** **Competitive Flexible Procedure**

This gives the ICB more flexibility for design a process around specific requirements and is more likely to be used for complex procurements.

The Competitive Flexible procedure allows the ICB to set Conditions of Participation to reduce the number of bidders and have multiple rounds of tenders alongside dialogue with bidders.

**8.2 Undertaking the procurement process**

The Procurement Act 2023 expects that most procurements will involve pre- market engagement prior to publishing an invitation to tender and if the ICB does not do this it is required to explain why it hasn’t.

The award criteria in the invitation to tender need to designed to identify the most advantageous tender (MAT) with criteria weighted accordingly.

The assessment methodology must be published with the invitation to tender to ensure that suppliers have a clear understanding of the award criteria and how they will be assessed against them.

Following assessment the ICB will publish assessment summaries to bidders informing them of the outcome of the procurement and how their tender scored.

**8.3 Direct Awards for Covered Procurements**

The ICB may only make a direct award of contract if the grounds to do so as specified in the legislation are met.

The grounds for a direct award are as follows:

* Prototypes and development
* Intellectual property rights or other exclusive rights and no reasonable alternative
* Additional or repeat goods and services
* Commodities
* Advantageous terms on insolvency
* Extreme and unavoidable urgency that could not have been foreseen
* User choice services
* Defence and security.

The Procurement Act 2023 introduced an additional ground for direct award to protect life, this can only be used if a Minister of the Crown considers it necessary and instructs accordingly.

A direct award may also be made if a competitive procurement has been undertaken and no suitable tenders have been received.

The ICB is required to publish increased transparency notices in respect of direct award including prior to agreeing the contract and observing a mandatory standstill period.

If the direct award of a contract is proposed the grounds on which the decision is being taken must be appropriately documented.

**8.4 Contract Modifications**

There are ten grounds for permitted contract modifications:

1. Provided for in the contract
2. Unforeseeable circumstances
3. Additional goods, services or works
4. Transfer on corporate restructuring
5. Non-substantial modifications
6. Below-threshold modifications
7. Urgency and the protection of life
8. Materialisation of a known risk
9. Defence authority contracts – developments in technology
10. Defence authority contracts – ensure continuous supply.

**8.5 Contract Performance and Administration**

The Procurement Act 2023 has requirements for the ICB to acquire, record and publish contract information throughout the life of the contract, including:

* Contract performance data, in the form of key performance indicators (KPIs),
* Information on poor supplier performance and breach of public contract, and
* Information about payments made under public contracts.

**8.5.1** **Key Performance Indicators**

Before entering into a public contract with an estimated value of more than £5m, contracting authorities must set (in agreement with the supplier) at least three KPIs. These must be published as part of the contract details notice.

At least once every 12 months the contracting authority must assess and then publish details of supplier performance against the set KPIs to the central digital platform using a contract performance notice.

To enable consistency and ensure that data is comparable across contracts, the central digital platform will require KPI data to be published using the same standardised rating system:

|  |  |
| --- | --- |
| **Good** | Performance is meeting or exceeding the key performance indicators |
| **Approaching target** | Performance is close to meeting the key performance indicators |
| **Requires improvement** | Performance is below the key performance indicators |
| **Inadequate** | Performance is significantly below the key performance indicators |
| **Other** | Where performance cannot be described as good, approaching target, requires improvement or inadequate |

**8.5.2 Poor Performance and Breach of Contract**

In certain situations where a supplier breaches a public contract, or fails to satisfactorily perform a public contract, the contracting authority must report this by publishing details in a contract performance notice.

These provisions are intended to capture the **most serious and persistent** performance failures.

**8.5.3 Contract Payment Reporting**

The Procurement Act requires the ICB to publish information about individual payments of more than £30,000 made by the ICB under a public contract, on a quarterly basis.

**8.6 Transparency Notices**

The Procurement Act 2023 requires increased publication of transparency notices via the Central Digital Platform. A full list of the notices is published at Appendix A.

**8.7 Below-Threshold Procurements**

Below-threshold procurements are those with a contract value below £214,904.

Regulated Below-Threshold Procurements refers to those procurements with a contract value between £30,000 and £214,904.

The ICB can choose to publish a Below Threshold Tender Notice and an invitation to tender via the Central Digital Platform. Pre-market engagement is optional, as is the standstill period following the publication of the Contract Award Notice.

Alternatively, the ICB is able to seek quotations from appropriate suppliers:

|  |  |
| --- | --- |
| Contract value | Requirement |
| Less that £1,000 | Minimum of one quotation (non-competitive)  Purchases are generally made using the ICB credit card. |
| More than £1,000 and less than £10,000 | Minimum of two quotations (competitive) |
| More than £10,000 but less than £214,904 | Minimum of three competitive quotations. |

In order to obtain quotations, the ICB must publish an appropriate specification and evaluation criteria, this will be a combination of price and qualitative assessment.

If it is determined that there are grounds for the ICB to award a below-threshold contract outside of this framework, e.g. direct award, these must be appropriately documented and approved.

For all Regulated Below-Threshold procurements with a contract value over £30,000 a Contract Details Notice must be published on the Central Digital Platform.

**8.8 Convertible Contracts**

A Convertible Contract is a contract that:

* (Prior to modification) is below threshold (less than £214,904)
* Was established in accordance with the rules surrounding below-threshold contracts
* Will be above threshold (more than £214,904) once a modification has taken place.

Once the modification has taken place, the modified contract will be a public

contract and the full scope of the Procurement Act 2023 will apply to it.

**8.9 Contract Termination**

The Procurement Act 2023 includes a requirement that a Contract Termination Notice be published if a contract is terminated for whatever reason, including reaching its expiry date.

# Procurement via Framework Agreements

Framework agreements can provide a useful and time-efficient route to procurement for both healthcare and non-healthcare procurements. The Contracting Authority or Relevant Authority who has awarded the contracts within the Framework will have accredited the providers.

Depending on the individual terms of the Framework, procurement may be by direct award to a Framework provider or by sharing the ICB’s requirements with the Framework providers and holding a mini-competition.

Contracts awarded from a Framework are referred to as Call Off contracts.

# Contract Award, Contract Signature and Contract Modification Decisions

The roles and responsibilities for taking decisions in respect of awarding and modifying contracts and for signing contracts is described in the ICB Operational Scheme of Delegation.

# Public Sector Equality Duty

All policies should include a statement that NHS Humber and North Yorkshire aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

It is required that a Equality Impact Assessment (QEIA) is carried out on a new policy that is likely to impact on patients, carers, communities or staff.

Potential adverse impact on any protected group identified through the QEIA will be monitored as part of the routine work to monitor compliance with the policy

# Consultation

Consultation has been undertaken with the Senior Leadership Team and members of the Procurement and Contracts Team.

# Training

This policy will be published on the ICB’s website.

All members of the Procurement and Contracts Team will be given training for implementation of this policy.

Due to the potential legal implications there is a need to ensure that there is wide understanding of the requirements of the Procurement Policy across the ICB and training will be undertaken in a variety of formats to meet these needs.

The policy will be brought to the attention of all new employees as part of the

induction process.

It will be continually reiterated that specialist technical advice and support is available from the Procurement and Contracts team.

# Monitoring Compliance with the Document

Compliance with the policy will be through the maintenance of the ICB’s official contract register and identifying instances where appropriate governance in respect of procurement has not been undertaken.

# Arrangements for Review

This Procurement Policy will be reviewed every year as a minimum and more frequently if indicated by changes in legislation or regulations.

# Dissemination

Notification of this policy will be included in the staff email bulletin and staff briefings.

The policy will be published on the ICB website for transparency in respect of the ICB’s procurement processes.

# Associated ICB Governance Publications

ICB Standing Financial Instructions

ICB Scheme of Reservation and Delegation

ICB Operational Scheme of Delegation

# References

The Health Care Services (Provider Selection Regime) Regulations 2023

Procurement Act 2023

Procurement Regulations 2024

Public Services (Social Value) Act 2012

# Appendices

Appendix A – Procurement Act 2023 Transparency Notices

# APPENDIX A – Procurement Act 2023 Transparency Notices

| **Reference** | **Notice name** | **Requirement** |
| --- | --- | --- |
| UK1 | Pipeline notice | **Mandatory** (for organisations where spend is £100m+ PA) 12-month forward-look at planned procurements £2m+ value |
| UK2 | Preliminary market engagement notice | **Mandatory** where pre-market  engagement is anticipated or  has taken place (or, explain  in the tender notice reason  for not publishing) |
| UK3 | Planned procurement notice | **Optional and best practice** advises the market of an upcoming procurement. A qualifying planned procurement notice can reduce tender timescales to 10 days |
| UK4 | Tender Notice | **Mandatory** when undertaking an open or competitive flexible procedure (including to establish a framework and award a contract under an existing dynamic market) or a regulated below-threshold procedure |
| UK5 | Transparency Notice | **Mandatory** when undertaking a direct award (publish prior to award) |
| UK6 | Contract Award Notice | **Mandatory** communicates the outcome of the procurement and (commences standstill prior to awarding a contract open or competitive flexible procedure) |
| UK7 | Contract Details Notice | **Mandatory** details of the awarded contract (including the redacted contract, for public contracts £5m+ and KPI information) |
| UK8 | Contract Payment Notice | **Mandatory** details of payments over £30,000 made under a public contract (quarterly) |
| UK9 | Contract Performance Notice | **Mandatory** to report:  a. annual KPI scores for public contracts valued £5m+  b. poor supplier performance / breach of contract (within 30 days of event) |
| UK10 | Contract Change Notice | **Mandatory** prior to a qualifying modification taking place (copy of modified contract for public contracts over £5m) |
| UK11 | Contract Termination Notice | **Mandatory** when a public contract ends |
| UK12 | Procurement termination notice | **Mandatory** where, after publishing a tender or transparency notice, the process is terminated without awarding a contract |
| UK13 to 16 | Dynamic market notice | **Mandatory** when advertising, establishing, changing or terminating a dynamic market |
| UK17 | Payments compliance notice | **Mandatory** details of contracting authority performance against 30- day payment terms (twice annually) |