Cumbria, Northumberland, Tyne and Wear
NHS Foundation Trust

Document Title	New Tenders Policy			
Reference Number	CNTW(O)84			
Lead Officer	James Duncan, Deputy Chief Executive & Director of Finance			
Author(s) (name and designation)	Sarah Jones, Director of Legal & Commercial Services, NTW Solutions Limited			
Ratified by	Business Delivery Group			
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Review and Amendment Log	**Version**	**Type of change**	**Date**	**Description of change**

This policy supersedes the following document which must now be destroyed:

Document Number	Title
Not applicable	

Policy on Tenders

1 Introduction

1.1 This policy sets out the process for producing and submitting tenders for the provision of clinical services on behalf of Cumbria, Northumberland, Tyne & Wear NHS Foundation Trust ("the Trust"). It includes the governance procedures and guidance on the steps that Trust officers are to take when producing and submitting tenders to external commissioners of clinical services that the Trust provides or may provide.

1.2 This policy only covers the process for producing and submitting tenders for the Trust's clinical services in response to a commissioner's formal tender process. It does not cover the negotiation and completion of contracts for the Trust's services that do not take place under a formal tender process, including those that are subject to provider collaborative arrangements.

1.3 This policy does not cover the process of the Trust issuing tenders to suppliers for the provision of goods, works and/or services to the Trust.

1.4 The decision to produce and submit a tender to an external commissioner is to be made following the submission of a Trust Business Case to Corporate Decisions Team – Business (CDT-B), or Trust Board (dependent upon the value of the tender opportunity). This is a requirement of CNTW(O)68 Business Change Process Policy and Scheme of Reservation and Delegation.

2 Purpose

2.1 The purpose of this policy is to provide a consistent and clearly defined procedure for members of Trust staff to follow when they are producing tenders in relation to Trust clinical services for external commissioners. The policy provides a framework that can be applied across the Trust and guidance on where support and assistance should be sought.

3 Duties, Accountability and Responsibilities

3.1 The **Deputy Chief Executive and Director of Finance** has executive accountability and responsibility for this policy and for ensuring that the processes and procedures that are set out in this policy are followed for the external commissioner tenders that fall within the scope of this policy.

3.2 All **Executive Directors** at the Trust have a duty and a responsibility to comply with this policy for tenders and to ensure that those who report to them do so too.

3.3 The **Project Sponsor** for a tender, who may be any member of staff at the level of **Deputy Director** or **Group Director**, or above, is accountable and responsible for the production, submission and quality of a Trust tender.

3.4 **Professional Support Services,** which includes Finance, Workforce, Informatics and NTW Solutions, are responsible for the provision of specialist support in the development of a tender, following their timely engagement by the Project Sponsor or their delegate.

3.5 **Heads of Finance and Business Development** are responsible for ensuring that their Group colleagues are aware of this policy.

4 Definition of Terms

4.1 References in this policy to:-

- ‘commissioners’ - means commissioners of clinical services from within and outside the NHS, such as Local Authorities, the commissioner is also referred to as the “tendering organisation” in this policy;

- ‘formal tenders’ - means a procurement or tender process that is conducted under the Public Contract Regulations 2015 (or replacement legislation); and

- ‘tender documents’ - means the documentation that is issued by the commissioner, which includes any Selection Questionnaire, Invitation To Tender, service specification and contract documentation.

5 Procedure / Process for considering, producing and submitting a Tender

5.1 The Project Sponsor and their team should ensure that the proposed tender is consistent with the Trust’s strategy for growth and their own business unit’s annual plan. This will be articulated in the Business Case. Where this is a new tender opportunity which was not contemplated within the business unit’s annual plan, the reasons for proposing to submit a tender will be explained within the Business Case. The Business Case may be submitted to CDT-B or the Trust Board (depending on the value) prior to the issue by commissioners of the Selection Questionnaire or Invitation to Tender, so as to obtain approval to proceed in advance. Alternatively, the Business Case may be submitted following the issue of the tender documents by the commissioner when more may be known about the proposed contract opportunity. The Business Case should set out the Trust’s approach to tendering, resource requirements to produce the tender and details of the contract opportunity itself. The Business Case must also provide details of any risks and issues that may arise from submitting the tender, and from winning (or losing) it.

5.2 The Business Case must demonstrate that the tender will be winnable, and that any resulting contract will be deliverable both in terms of the service provided to the commissioner and the contribution that the contract will make to the Trust’s finances.

5.3 During any pre-market engagement or pre-tender period the Project Sponsor and/or their team should make contact with the relevant commissioner. It is important that during any pre-market engagement or other preliminary stages of the process, the Trust is well informed of the process and, where appropriate, provides input as a provider organisation.

5.4 In preparation for a tender being issued, the Project Sponsor and their team should consider the possibility of partnering with other providers. Factors to consider in taking this step include the partner having complementary or additional skills and experience which are likely to improve the Trust's ability to win the tender. Due diligence should be carried out on any proposed partner organisation to ensure that it is an organisation which has satisfactory financial and economic standing, and that it has a good reputation within its sector. The Project Sponsor must engage with the Trust's Head of Income and Contracted Services to agree an approach on due diligence and, where a partner organisation is selected, to negotiate and agree a memorandum of understanding between the parties.

5.5 Once a decision has been made to proceed with a tender, the Project Sponsor is responsible for assigning the tasks listed below to the following individuals and/or teams:

5.6 **Project Management**

5.6.1 Effective project management of the tender is essential. The Project Sponsor should select a Bid Manager with the necessary professional skills to oversee the management of the Trust's response to the invitation to tender. This includes ensuring the delivery by colleagues of agreed outputs on time. The Bid Manager may be an existing member of Trust staff or an external expert who is engaged in this role. The Bid Manager should be dedicated to this role, with sufficient time assigned to the task of managing the Trust's bid campaign.

5.7 **Bid Winning Strategy**

5.7.1 Before rushing to work on the response to the invitation to tender, the Project Sponsor must establish a team of colleagues who are responsible for creating the Trust's "win strategy". The Win Strategy will describe the Trust's strategies and approaches to ensuring that it will win the tender.

5.7.2 This team is responsible for analysing the opportunity, the customer, the competition and the internal capabilities of the Trust (and any partners).

5.7.3 The Win Strategy should include the following:

- A high-level paragraph describing how the Trust is going to win the tender and how it will implement the win strategy.
- A description of the Trust's differentiators (in relation to its competition) – what makes the Trust unique, how will we maximise our strengths (including our added value offerings) and build on opportunities?
- A description of mitigations – where does the Trust need to improve, how will we mitigate any weaknesses and minimise any threats?
- Win Themes - by evaluation factor/sub-factor – a strategy for each evaluation factor/sub-factor in the tender document.
- Details of major sub-contractors or partners, including respective capabilities and skills.
- Price – how will the Trust price to win, while ensuring a sufficient contribution to the Trust?

5.8 **Invitation to Tender (ITT) Review Team**

5.8.1 The Project Sponsor must establish an ITT Review Team who have the responsibility for reviewing the tender documentation. The ITT Review Team must include at least two clinical specialists for the particular area that the tender relates to, a commercial/contact specialist with procurement expertise, a finance lead and the Bid Manager. When selecting this team, the Project Sponsor should assess the existing expertise of colleagues across the Trust in managing and producing tenders and consider involving them in the tender.

5.8.2 Following completion of the review of the ITT, the Bid Manager will convene a Tender Initiation meeting, of at least half a day’s duration. This will include the ITT Review Team and any other colleagues who may be involved in writing the tender response.

5.8.3 At the Tender Initiation meeting the ITT Review Team will present on their findings and the meeting will cover the following:

- The bid timeline/deadlines.
- Identify any “show stoppers” or issues that might cause concern.
- Ensuring that there is a common understanding of the tender documents and how the response should be produced.
- An explanation of what the commissioner’s contract and service specification will require of the Trust service and any partners/sub-contractors.
- Agreeing to any early requests for clarifications that are to be put to the commissioner.
- Identify win themes based on the Win Strategy.
- Consider storyboard responses.
- A discussion on pricing models, including cost of delivery and any stated budget requirements of the commissioner.
- A decision on roles and responsibilities for communications with the commissioner, and for producing/writing and submitting the tender response.

5.8.4 The Bid Manager is responsible for producing a Tender Plan which details milestones, the development of commercial & financial proposal and tender (quality) response and submission, and the review and approvals process at the Trust.

5.9 Development of the Proposal – Writing the Tender

5.9.1 Having decided at the Tender Initiation meeting which colleague(s) will develop the tender response, the Bid Manager will manage the process of producing the tender proposal. Key issues to focus upon when producing a tender response include:

- Answer the question that has been asked - addressing all elements of the question, not answering the question that you might want to be asked.

- Articulate the Trust's value proposition in a way that can be easily understood in response to each quality question.
- If the Trust is the incumbent, do not rely on the commissioner having previous knowledge of the Trust and our Services, as the evaluators may not know the current service.
- Write the tender in a consistent way – it should read as if it has been written by one person, even if this is not the case.
- Research – know the customer, the subject of the contract (including patient groups). Try to meet people currently running the services and take advantage of any site visits that may be offered.
- Like an exam, the evaluation criteria are based around the questions asked. Always focus on the questions and aim to achieve the optimum score that is being offered for that question.
- "Play the game" – make sure that all questions are answered using the formatting required and comply with any word counts and submission rules. Make it easy for the evaluators by adopting their numbering and formatting.
- Ensure that the themes from the Win Strategy are incorporated into the response, including details of the Trust's differentiators and any mitigations.
- Test pricing assumptions and ensure that all relevant cost factors are included in the pricing proposal ie staff, premises, systems.

5.10 **Bid Review Team**

5.10.1 The Project Sponsor must ensure from the outset that a team of colleagues are identified and engaged with for the purpose of reviewing the tender response. Bid Review Team members should be drawn from members of the relevant Clinical Network or professional group that relates to the specialism that the tender covers. Partner organisations should also provide Bid Review Team members.

5.10.2 The main purpose of the Bid Review Team is to provide a critical review of the tender, in particular the quality responses. They need to be given sufficient time to undertake this task, usually at least a week prior to the submission deadline.

5.10.3 Members of the Bid Review Team should not have been directly involved with the writing of the tender response. They should provide honest feedback that is not overly critical but designed to improve the bid.

5.10.4 The Bid Manager is responsible for providing members of the Bid Review Team with copies of the invitation to tender and the Trust's tender response document. The Bid Manager should convene a meeting of Bid Review Team members, at which they can provide their feedback on the tender response on a line-by-line basis. The Bid Manager or the bid writer will capture the feedback and amend the tender response as agreed.

5.11 **Tender Submission**

5.11.1 The Project Sponsor is responsible for final approval of the tender proposal.

5.11.2 The Bid Manager is responsible for the submission of the tender response to the commissioner's tender portal by the submission deadline.

5.12 Following notification of the outcome of the commissioner's evaluation process:

- Where the Trust has been successful, the Project Sponsor or their nominee is responsible for mobilising the implementation of the new contract.
- If the Trust has been unsuccessful in the tender, the commissioner's standstill or notification letter will be shared by the Project Sponsor with the Head of Procurement and/or the Director of Legal & Commercial Services at NTW Solutions to determine if there are any potential grounds for challenge within the applicable standstill period. During this period confidentiality will be maintained.
- The outcome of the tender will be reported to CDT-B or the Trust Board, who may make further requests or recommendations.

5.13 Regardless of the outcome of the tender process, the Project Sponsor is responsible for ensuring that a lessons-learnt review is conducted, so as to ensure that valuable lessons about the Trust's approach to each tender and experience of the commissioner and the tender process are discussed and documented for future learning. The Trust's Deputy Director of Finance will maintain details of the lessons-learnt reviews as part of the Project Log that he retains for CDT-B.

6 Identification of Stakeholders

6.1 This is a new policy and therefore has been circulated to those listed below for a period of **four** weeks.

- **North Locality Care Group**
- **North Cumbria Group**
- **Central Locality Care Group**
- **South Locality Care Group**
- **Corporate Decision Team**
- **Business Delivery Group**
- **Safer Care Group**
- **Communications, Finance, IM&T**
- **Commissioning and Quality Assurance**
- **Workforce and Organisational Development**
- **NTW Solutions**
- **Local Negotiating Committee**
- **Medical Directorate**
- **Staff Side**
- **Internal Audit**
- **Health Safety Security and Resilience**

7 Training

7.1 All staff who are engaged in services where tenders are usually issued by commissioners should be aware of this new policy, and support and training can be provided by the Trust's Heads of Finance and Business Development, or another expert who may be engaged for the purpose of providing training.

7.2 Relevant staff groups that this will impact upon are referred to in Appendix B.

8 Implementation

8.1 This policy will be discussed at relevant management groups, including Business Delivery Group (BDG) and CDT-B during the Policy consultation process. It is intended that this Policy will be implemented with immediate effect once it is ratified.

9 Equality and Diversity

9.1 In conjunction with the Trust's Equality and Diversity Officer this policy has undergone an Equality and Diversity Impact Assessment which has taken into account all human rights in relation to disability, ethnicity, age and gender. The Trust undertakes to improve the working experience of staff and to ensure everyone is treated in a fair and consistent manner. (See Appendix A)

10 Fair Blame

10.1 The Trust is committed to developing an open learning culture. It has endorsed the view that, wherever possible, disciplinary action will not be taken against members of staff who report near misses and adverse incidents, although there may be clearly defined occasions where disciplinary action will be taken.

11 Fraud and Corruption

11.1 In accordance with the Trust's policy CNTW(O)23 – Fraud and Corruption Policy and Response Plan, all suspected cases of fraud and corruption should be reported immediately to the Trust's Local Counter Fraud Specialist or to the Executive Director of Finance.

12. Monitoring

12.1 See Appendix C for the Monitoring Framework

13. Associated documents

- CNTW(O)01 – Development and Management of Procedural Documents
- CNTW(O)23 – Fraud, Bribery and Corruption Policy and Response Plan
- CNTW(O)68 Business Change Process Policy
- Trust Scheme of Reservation and Delegation
- Trust Risk Strategy and Policy
- Trust Standing Financial Instructions

Appendix A

Equality Analysis Screening Toolkit			
Names of Individuals involved in Review	**Date of Initial Screening**	**Review Date**	**Service Area / Locality**
Sarah Jones Chris Rowlands	Apr 2021	June 2024	Trust- Wide
Policy to be analysed		**Is this policy new or existing?**	
CNTW(O)84 – New Tenders Policy		New	
What are the intended outcomes of this work? Include outline of objectives and function aims			
This policy sets out the process for producing and submitting tenders on behalf of Cumbria, Northumberland, Tyne & Wear NHS Foundation Trust ("the Trust"). It includes the governance procedures and guidance on the steps that Trust officers are to take when producing and submitting tenders to external commissioners of services that the Trust provides or may provide.			
Who will be affected? e.g. staff, service users, carers, wider public etc			
Staff, service users and carers			
Protected Characteristics under the Equality Act 2010. The following characteristics have protection under the Act and therefore require further analysis of the potential impact that the policy may have upon them			
Disability	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity and inclusion objectives will be met.		
Sex	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity and inclusion objectives will be met.		
Race	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity and inclusion objectives will be met.		
Age	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity and inclusion objectives will be met.		
Gender reassignment (including transgender)	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity and inclusion objectives will be met.		
Sexual orientation.	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity and inclusion objectives will be met.		
Religion or belief	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity and inclusion objectives will be met.		
Marriage and Civil Partnership	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity		

	and inclusion objectives will be met.
Pregnancy and maternity	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity and inclusion objectives will be met.
Carers	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity and inclusion objectives will be met.
Other identified groups	All tenders address the issues of equality, diversity and inclusion. Providing that information can be provided in the detail required then equality, diversity and inclusion objectives will be met.

How have you engaged stakeholders in gathering evidence or testing the evidence available?	
How have you engaged stakeholders in testing the policy or programme proposals?	
Yes, members of CDT-B and RABAC have been presented with the Policy during the drafting process and given an opportunity to provide feedback.	
For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs:	
Summary of Analysis Considering the evidence and engagement activity you listed above, please summarise the impact of your work. Consider whether the evidence shows potential for differential impact, if so state whether adverse or positive and for which groups. How you will mitigate any negative impacts. How you will include certain protected groups in services or expand their participation in public life.	
The policy is likely to be neutral in its impact. Depending on service being tendered for, may have a positive impact	
Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups. Where there is evidence, address each protected characteristic	
Eliminate discrimination, harassment and victimisation	As above
Advance equality of opportunity	As above
Promote good relations between groups	As above
What is the overall impact?	Neutral
Addressing the impact on equalities	Depending on the tender may be positive in impact.
From the outcome of this Screening, have negative impacts been identified for any protected characteristics as defined by the Equality Act 2010? No **If yes, has a Full Impact Assessment been recommended? If not, why not?** **Manager's signature: Chris Rowlands Date: April 2021**	

Appendix B

Communication and Training Check list for policies

Key Questions for the accountable committees designing, reviewing or agreeing a new Trust policy

Is this a new policy with new training requirements or a change to an existing policy?	Yes it is a new Policy
If it is a change to an existing policy are there changes to the existing model of training delivery? If yes specify below.	N/A
Are the awareness/training needs required to deliver the changes by law, national or local standards or best practice? Please give specific evidence that identifies the training need, e.g. National Guidance, CQC, NHS Resolutions etc. Please identify the risks if training does not occur.	No
Please specify which staff groups need to undertake this awareness/training. Please be specific. It may well be the case that certain groups will require different levels e.g. staff group A requires awareness and staff group B requires training.	Managers who are involved in services that are subject to external tender processes
Is there a staff group that should be prioritised for this training / awareness?	Managers who are involved in services that are subject to external tender processes
Please outline how the training will be delivered. Include who will deliver it and by what method. The following may be useful to consider: Team brief/e bulletin of summary Management cascade Newsletter/leaflets/payslip attachment Focus groups for those concerned Local Induction Training Awareness sessions for those affected by the new policy Local demonstrations of techniques/equipment with reference documentation Staff Handbook Summary for easy reference Taught Session E Learning	Discussion at Managers meetings, Clinical Networks, Learning Improvement Group session
Please identify a link person who will liaise with the training department to arrange details for the Trust Training Prospectus, Administration needs etc.	Training will be ad hoc and not delivered via CNTW Academy

Training Needs Analysis

Staff/Professional Group	Type of training	Duration of Training	Frequency of Training
Managers of services subject to commissioner tenders	Discussion at Managers meetings, Clinical Networks, Learning Improvement Group session	N/A	As and when managers require it

Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust

Appendix C

Monitoring Tool

Statement

The Trust is working towards effective clinical governance and governance systems. To demonstrate effective care delivery and compliance, policy authors are required to include how monitoring of this policy is linked to auditable standards/key performance indicators will be undertaken using this framework.

Policy on Tenders - Monitoring Framework			
Auditable Standard/Key Performance Indicators		**Frequency/Method/Person Responsible**	**Where results and any Associate Action plan will be reported to implemented and monitored;** (this will usually be via the relevant Governance Group).
1.	Appropriate adherence to the process for developing and submitting external tenders in line with this Policy on Tenders	Annually - by Group Heads of Finance and Business Development working with Project Leads	Corporate Decisions Team – Business (CDT-B)

The Author(s) of each policy is required to complete this monitoring template and ensure that these results are taken to the appropriate Quality and Performance Governance Group in line with the frequency set out.