THE SCOTTISH OFFICE

Department of Health

NHS
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NHS Management Executive
St. Andrew's House
Edinburgh EH1 3DG
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Dear Colleague

SMOOTHING THE PRIVATE FINANCE PROCUREMENT PROCESS

Summary

In order to allow as rapid a progress as possible to be made through the PFI procurement process, Treasury have issued the attached set of guidelines to be followed in the public sector. The annex to this letter indicates how the guidelines apply to the NHS in Scotland, and the Guidelines themselves are attached.

This guidance supplements the ground covered in the 1995 Treasury publication 'Private Opportunity, Public Benefit, and further guidance in the Scottish Capital Investment Manual and Volume 2 of the Private Finance Guide will reinforce the key points.

Action

The guidelines, as supplemented by the annex to this letter, should be followed for all schemes progressing along the private finance exploration route with immediate effect.

Yours sincerely

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PFI: GUIDELINES FOR SMOOTHING THE PROCUREMENT PROCESS

1. Introduction

1.1 This guidance applies to all schemes which are undertaking exploration of private finance options. The Capital Investment Panel will normally expect this exploration to take place, but certain schemes will not be required to do this where there is little chance of a successful outcome. The CIP will give as early a view as possible on this requirement.

1.2 The forthcoming Private Finance Guidance will re-emphasise a number of these points.

2. Pre-conditions for exploration

2.1 It is vital that, before a scheme is tested in open competition for private finance options, a range of issues are thought through clearly. Failure to do so may lengthen or confound the procurement process. These are as follows:

2.2 Project Management - clear arrangements should be in place, including an identified project manager, sponsors and advisors. The basis on which advisors are to be appointed should be clearly set out.

2.3 The Scope of the Scheme: - the service(s) to be procured should be clearly identified, together with orders of magnitude for capital and operating expenditure. The scoping should not be over-specific, and should be flexible enough to allow innovative ideas as to how the service should be delivered to come forward, based on clear, service-based objectives.

2.4 Value for Money and Risk Transfer - key risks, weighted and valued, should be identified where appropriate to assess the potential for risk transfer. The scope for deriving value for money from a private solution should be considered, obtaining the views of advisors if possible.

2.5 Procurement Process - the EC procurement route should be selected early (generally the negotiated procedure) and an indicative timetable to award of contract set out, together with indicative evaluation criteria to be used.

2.6 Other Issues - details of planning requirements or approvals or other material issues like proposed asset disposals, should be identified.

3. Public Sector Comparators

3.1 A Public Sector Comparator (PSC) should normally be worked up for NHS schemes. Only if there is no prospect of public funding being available in the short or medium terms will a PSC not be necessary. The Capital Investment Panel will give an indication if this is the case.

3.2 In some circumstances, it may be desirable to share the PSC with bidders. This should be done if it will promote value for money in the scheme or if it would help avoid abortive effort in tendering if the PSC is too great a hurdle for the private sector to clear.

4. **Outline Business Cases (OBC)**

4.1 A well prepared OBC will form a sound basis for consideration of all of the above issues.

5. **Invitations to negotiate (ITN)**

5.1 ITNs should include the shape of the proposed contract and a clear output specification. The NHS PFU would be happy to provide comments on any ITN documents for issue. This will help promote the sharing of good practice.

5.2 To avoid unnecessary bidding costs, no more than 3 or 4 bidders should normally be invited to produce full tenders.

6. **Selection of Preferred Bidders**

6.1 Selection should be made as early in evaluation of bids as is reasonable, bearing in mind the need to secure value for money and settle material commercial issues through competition.

6.2 A bidder may be selected before fully committed finance is in place, so long as there is sufficient comfort in securing financial arrangements that there is no risk of having to re-open contracts later.

6.3 A timetable should be agreed up to contract award, and remaining bidders should be put on hold.

7. **Other Issues**

7.1 Bid Bonds - these are expensive and should not be sought other than in exceptional circumstances.

7.2 Debriefing - candidates not selected for the bid list and all tenderers should be fully debriefed on request. Good practice would be to offer debriefing automatically.

7.3 Reimbursement of Bid Costs - these may be considered under certain circumstances, for example, if the procurement is aborted post-ITN by the public sector for reasons beyond bidders' control.