



Department of Health & Social Care

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Dame Meg Hillier MP
Chair, Committee of Public
Accounts
House of Commons
London SW1A 0AA

31 October 2022

Dear Chair,

Re: TM17 - Treasury Minute response to the Randox PAC report

1: PAC recommendation: The Department should write to us within two months, setting out details of when and how its commercial refresh will bring record-keeping up to standard and ensure that this is the case under all circumstances.

1. The department (DHSC) has detailed procurement policies, processes, tools and templates to support commercial professionals which have been in place for many years.
2. In dealing with the unprecedented crisis of the Covid-19 pandemic, the government priority was to secure the necessary supplies to lessen the impact on public health to the greatest extent possible. In responding to Covid-19, the department's procurement activity was undertaken by over 400 buyers in teams across government who did not have automatic access to DHSC systems, including the e-commerce system (Atamis), the tool through which contract documentation and records are kept and monitored. Some of these commercial teams have since been formally incorporated into the department's commercial directorate for the contract management phase.
3. The department has undertaken a commercial reset through which an enhanced governance and assurance function has been created to ensure that all procurement activity, under whatever scenarios and circumstances, is undertaken using the e-commerce system. In May 2022, the department achieved the Chartered Institute of Procurement & Supply's Procurement Excellence Gold Award. This is a globally-recognised award achieved through an independent and comprehensive assessment of processes, policies and procedures.
4. This letter sets out the steps taken to ensure a high-standard of record keeping and good governance, which are a function of one another, in commercial practice across the department. We have done this by addressing 5 broad areas and issues, some of which have been touched on above.

i. Standard Operating Procedure – Emergency Procurement

5. The department has developed a Standard Operating Procedure for emergency procurement. The guidance covers how new programmes requiring oversight are to be quickly set up with the right commercial controls established and understood by delivery staff and partners.

6. The guidance covers the accountability framework, project delivery, business case and approvals and project close. The guidance is clear that procurement activity should be undertaken in accordance with the departmental procurement policy and contract management toolkit, using departmental systems and that all contracts must be managed by a dedicated operational contract manager.

ii. Regulation 32 (Direct Award) Approvals Process

7. Regulation 32 of the Public Contracts Regulations 2015 provides the legal framework for award of contracts without advertising, including in extreme urgency. This procedure was used to respond to the COVID-19 crisis as was described in [Procurement Policy Note 01/20 - Responding to COVID-19](#).

8. We recognise that procurement activities that dispense with the usual requirement for open and fair competition require extra safeguards. There is now a clearly documented due diligence process that has been widely communicated. All cases over the relevant threshold (£138,760) must be submitted to me for approval.

iii. Increased assurance

9. A new Commercial Assurance team, led by an assurance Deputy Director, has been established to provide advice on developing strong commercial business cases, to provide constructive challenge and identify areas for improvement. In addition, a new Commercial Assurance Board (CAB) has been implemented to bring about robust risk-based commercial assurance on high value or high-risk business cases across the DHSC Health Family i.e. including arm's length bodies and agencies such as the UK Health Security Agency (UKHSA).

10. The CAB provide a second line of defence to ensure that cases are robust and contain evidence to inform commercial and investment decision making, including evidence of relevant approvals.

iv. Single e-commerce System

11. The department has implemented a single e-commerce system that will see pipeline, business cases, procurement, contract management, supplier management and spend analytics all managed through the same system across the health family. This is a fundamental part of a wider programme to govern and embed commercial systems and data standards across the health family to enable commercial experts to drive commercial effectiveness and efficiency.

12. Commercial process and record management are standardised, utilised and enabled within the e-commerce system. All users are trained and have a clear understanding of roles and responsibilities. There are standardised templates and documents that are compliant with procurement regulations.

13. This system ensures data is captured in a single location and is accessible to all who need to access it. This means there is a "single version of the truth" for record keeping in respect of all commercial decisions. There are over 9,000 active projects on this system.

v. Training and Capability

14. All procurement team members are trained and coached on the job in the application of sourcing and supporting tools through mandatory training, system training and workshops.

15. This includes use of an interactive tool, providing an end to end representation on a procurement journey which groups documents into stages of the procurement process to ensure individuals can easily locate policies, tools and templates, indicating clearly when and how procurement activities should be documented.

3a: PAC recommendation: Alongside its Treasury Minute response, the Department should write to us to clarify the information it had on declared private interests and how it used this information to identify potential conflicts of interest in its procurement decisions.

16. As required under Regulation 24 of the Public Contract Regulations 2015, the Department of Health and Social Care (DHSC) had robust rules and processes in place before the Covid-19 procurement response in order to ensure that conflicts of interest are identified and appropriately managed. These included all potential conflicts being declared by suppliers upon registering as a new supplier.

17. At the end of March 2020 the Department put in place a central procurement support function for all Covid-19 related procurement. Specific guidance was issued to the Department's Covid-19 procurement cell bringing together existing procurement requirements and new processes for quickly assessing and expediting offers from suppliers.

18. If a supplier was not already registered on the Department's procurement data systems then they were sent a supplier form to complete – this is attached at **Annex A**. Section 5 is titled 'Conflict of Interest Declaration' and contains two questions which seek information in relation to both Department employees, ie officials, as well as Ministers:

1. *Do any of your employees who would be directly involved with the proposed provision of these goods or services have any friends or relatives who are, or have in the last five years been employed or held a post (including Ministerial posts) at the Department of Health and Social Care or its ALBs?*
2. *Does your organisation have any association (either directly or indirectly) with any employee or post (including Ministerial posts) at the Department of Health and Social Care or its ALBs?*

19. Radox submitted a completed form which contained a 'No' in response to both these questions. New supplier forms were required for the majority of supplier offers in response to Covid-19.

20. These new supplier forms were checked for completeness by the department's Procurement Operations team who finalised details of the contract arrangements, consulted HMT and the department's Accounting Officer and sent it to the team

responsible for Supplier Maintenance. All offers from suppliers were evaluated by officials following processes established at the time (eg the eight stage assurance process for Personal Protective Equipment (PPE)).

21. Ministers are required to declare their interests when they come into post and these are updated and published on Gov.uk bi-annually - <https://www.gov.uk/government/publications/list-of-ministers-interests>. There were no declarations of interest in respect of Randox in 2019, 2020 or 2021.

22. All contracts were awarded by the appropriate Departmental accounting officer – an official - in line with the Department's policy and procedures. Only individuals with formal delegated authority can sign contracts. One of the conditions of delegated authority is that an individual must not exercise contractual delegation in respect of any project where there is a potential conflict of interest. It is mandatory for all civil servants to declare any potential conflicts of interest annually.

23. The initial contract with Randox was issued in March 2020. Evidence released in response to the Humble Address shows no evidence of preferential treatment being given to Randox. The first contract with Randox was signed before the meeting between Randox and the Minister for Innovation (Lord Bethell) on 9 April 2020, which was attended by former MP Owen Paterson. Private WhatsApp messages viewed by officials during the NAO Inquiry and Humble Address process showed riders to Mr Patterson's messages in which he clearly states that he is a paid consultant for Randox.

24. There is no evidence to suggest that the contract was awarded under an improper process, or that Mr Patterson's employment by Randox in any way influenced the decisions made by officials. Ministers were not involved in the evaluation and procurement process and all contracts with Randox, and any other supplier, were awarded in line with procurement regulations.

25. Although Mr Paterson was found to be in breach of the paid advocacy rules by the Parliamentary Commissioner for Standards in October 2021, their findings relate to approaches made by Mr. Paterson on behalf of Randox to the Food Standards Agency in 2016 and the Department for International Development in October 2016 and January 2017. They do not relate to the Department for Health and Social Care or NHS Test and Trace.

Yours sincerely,



Shona Dunn
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