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Mr Richard Bacon
MP for South Norfolk
Member of the Public Accounts Committee

24 January 2011

Re: Contract Negotiation in the National Programme for IT in the NHS

Dear Mr Bacon,

Thank you for your email of the 13th January 2011. This letter seeks to respond to the points you have raised in the order you raised them.

However, I would firstly like to set some context for the actions the Department is currently taking and the Government's plans for the longer-term future for NHS IT.

Ministers are committed to creating an environment which encourages a vibrant supply market that provides choice of high quality systems that meet common and demanding standards, supporting delivery of high quality services for NHS organisations and the patients that they serve. Self-evidently, we do not start that process from a blank sheet and have to operate within the constraints which exist because of the contractual arrangements made under the previous administration, the existing level of maturity of the supply market in health IT, and the reality that the structure of health provision in England will continue to change over time.

As Secretary of State, Andrew Lansley has looked at the options available and concluded that we should continue substantially to honour our contractual commitments made under the National Programme for IT, but should seek to do so on the basis of modified delivery arrangements to increase flexibility, and a more modular approach, to enable benefits to be delivered sooner. This approach has been reviewed and supported by the Cabinet Office Major Project Review Group.

Thus the transition to the Government's longer-term vision for delivery of services will be delivered through a series of milestones over a period of time. Decisions made in the meantime will need to take account of the existing environment, as well as future aspirations.

Turning now to your questions:

1. You are right to say that the number of acute Trusts scheduled to receive the Cerner product has been reduced. However this quantitative change needs to be considered in the context of the qualitative, ie. functional, enhancements and improvements that have also been agreed. Previously, the Cerner Millennium solution was more limited and the delivery approach being taken had led to a number of concerns from the NHS (and indeed the supplier).

   The organisation of the NHS in London has changed and is anticipated to change further and even more radically in the future. Thus the NHS need was for a highly configurable, more modular approach to delivery of the product, supported for longer in the deployment and rollout phase. This included the need for additional supplier manpower to support the deployments as well as significant new technical environments and infrastructure to allow the local configurations to be supported. This locally driven approach seeks to support the new health agenda and was supported by the NHS London advisory groups who reviewed and contributed to the revision of the contract to meet their stated needs.

   In respect of RiO, the revised contract, which necessarily accommodated the London PCT re-organisation resulted in one less deployment of RiO for Community Health Trusts from that originally contracted. It should also be noted, as with Cerner, the revised deal resulted in a number of improvements and enhancements to the RiO solution to be provided by BT.

   You are correct the GP systems will no longer be provided by BT, and these will now be delivered by the GP Systems of Choice (GPSoC) programme. The BT contract did scope out a London Ambulance Solution and this could still be "called down" if required and if funding were made available. However, it was determined by the NHS that there are currently higher priorities and the Ambulance funding was therefore directed towards these.

2. You ask about the alternate solution being deployed at Imperial. Imperial College Healthcare NHS Trust has indeed recently rolled out a legacy PAS across the whole organisation, but this is a result of the merger of constituent parts of the Trust, namely St Mary's acute Trust and Hammersmith acute Trust. These now operate on a single solution rather than two different solutions as they had when entirely separate organisations.

   The next planned phase, under the BT LSP contract, is to roll out the Cerner Millennium Order Communications system on top of the PAS system. This will provide significant benefits to the Trust. The single PAS now deployed makes for an easier Cerner Millennium deployment in the future as St Mary's and the Hammersmith have already cleansed their historical data being migrated to a single, rather from two, different systems. Subsequently, Imperial will rollout the Cerner PAS under the BT contract to replace the single legacy PAS referred to previously.

   This approach was anticipated as part of the revised BT contract (the more flexible approach to delivery mentioned earlier) and there is currently no expectation that Imperial will not take up the full planned Millennium deployment.

I am currently entirely confident that BT's other commitments will be taken up in London, subject to BT continuing to deliver an acceptable service. NHS London have confirmed at the time of the changes to the contract there was at least the historic level of demand for the services, and I am unaware of any change in that position.

3. I am afraid you are misinformed about the level of Cerner functionality. Functionality has not been reduced. Indeed the exact opposite is the case, and at the request of the NHS in London, access to the full scope of the Cerner product has been made available for those Trusts where it has or will be deployed to meet their clinical and patient needs. There is currently an agreed programme of activity to upgrade all acute Trusts onto the latest Cerner Millennium software codebase. In fact, all live Trusts in the South will have been upgraded to the latest Cerner Millennium codebase by the end of January 2011. The first of the London acute Trusts is scheduled to complete the code upgrade project by the end of March 2011, and the rollout will continue across London throughout 2011.

4. It is difficult to comment meaningfully on the financial comparisons you make about the RiO product, since it is not clear what scope, duration or terms apply to Trusts that you say have taken delivery of RiO for between £0.5m and £1m and how, if at all, these compare with the product for which we have contracted. The price paid for RiO in the South was based on pricing in the BT LSP contract, which has been validated through the Department's usual business case approvals processes at the time of change of sub-contractor.

   In respect of the 'greenfield sites' in the South of England, I am aware that you have raised a number of queries with the NAO and they are providing a full analysis based on advice and information provided by the Department. I therefore do not feel it would be appropriate for me to comment on this particular issue until the work of the NAO is completed

   As in the case of RiO, so for locally-commissioned Cerner systems. It is not clear to me what scope, responsibilities, duration or terms apply to the contract in the Wirral but in the South BT provided an updated detailed proposal on the basis outlined above, which was priced at £69m. Similarly to RiO, and as you would expect, this figure was agreed through the usual business case processes, involving the Treasury, and our own and Treasury Ministers. This is also currently being reviewed by the NAO, I understand at your request.

5. As I believe is widely known, as part of the original contracts, volume commitments were made to CSC (and all other LSPs) to ensure best value for money was obtained. This is balanced by the contractual commitment that payment for product is only made when the product has been deployed and is working. Thus if the supplier fails to deliver, the planned payments are reduced. If a Trust takes an alternate solution which could have been delivered by the incumbent LSP, then in those circumstances it is appropriate that the supplier is recompensed. This has not occurred in my time as the Director General for Health IT.

6. The MOU you mention has not been agreed (and therefore not signed at this stage), and I therefore cannot comment on your speculation as to the precise numbers. The volumes we have been discussing with CSC have been based on the advice from the local NHS via the SHAs last year. As I explained in my

earlier response, before any revised contract were signed, we would review and confirm any volume commitments with the local NHS.

7. I have made no secret of the fact that I regard the history of delivery of Lorenzo to date as very unsatisfactory. Because of this, we have been looking to achieve a more flexible approach to the delivery of the system on the basis that the latest plan from CSC for the delivery of the product, which was accepted last year, is achieved, as well as securing the reduction in contract cost. The Chief Executive of the NHS and the President of CSC are planning to meet to discuss this matter further. It would be inappropriate for me to make more general comment at this stage that might be detrimental to the Department's negotiating position.

8. We continue to work with CSC and Morecambe Bay, along with other Trusts where it has been deployed, to address any defects in the Lorenzo system. Where a deployment has not been signed off as meeting the agreed criteria, CSC have not been paid the charges they would have expected to receive.

9. The removal of exclusivity, and thus the volume commitment, is an option available to the Department where the contractor commits a breach of contract which cannot be remedied in an acceptable way or timescale. This is, correctly, a high threshold, but is an option under constant and current review.

10. I find the suggestion that the Additional Supply Capability and Capacity (ASCC) Framework makes 'onerous' demands on potential suppliers, and includes 'untenable terms and conditions' particularly surprising. It may be helpful if I explain some basic background here.

    Under the procurement being run via the ASCC framework, more than 60 companies were, in 2008, appointed and so agreed to be bound by its commercial terms and conditions. The companies appointed ranged across small, medium and large enterprises. The ASCC framework's commercial terms and conditions are based on the Office for Government Commerce's (OGC's) ICT Services Model Agreement and Guidance. The OGC is part of the Efficiency and Reform Group in the Cabinet Office. The Model Agreement and Guidance is recommended best practice.

    The business requirements for the Community and Child Health procurement are those agreed jointly by the Trusts taking part. The suppliers who successfully demonstrated their capacity and capability to deliver services relevant to this Community and Child Health business need, by way of being appointed to the ASCC framework, were invited to put forward bids. The suppliers selected will be those who offer the best combination of fit with the Trusts' business needs and the prices they offer. If a supplier cannot meet the needs of the NHS, they will not be selected.

11. We are actively in the evaluation phase of the procurement for Community and Child Health Trusts and, subject to final approvals, about to start the procurement process in the acute care settings. it would be inappropriate and potentially prejudicial to that process to release sensitive information relating to supplier pricing. However, in terms of value for money, once each of the procurements is complete and full costs are known an investment case will be made for each which will be subject to both DH and HMT reviews specifically on value for money. As you suggest, the NAO may due course take a view about this and other aspects of our procurement programme.

12. I am happy to consider your request to undertake a specific review of the costs of running the respective systems, and I will discuss further with colleagues in the NHS locally.

13. We have provided copious information on these matters to the NAO in the course of their latest, and previous value for money studies. I do not think it is appropriate or necessary to provide this information separately to yourself (albeit a member of the PAC), particularly as it contains commercial and confidential information, whose public disclosure may be prejudicial to the Department's ongoing negotiations.

14. I do not feel able to provide the information you have requested, for the reasons explained above.

15. The contracted costs of the Release 0 Cerner Millennium (the initial phase of delivery) deployment under the Fujitsu contract have been provided to the NAO. My points set out at 13 refer.

The Fujitsu cost of the interim running between the two contracts.

- The total value of the Short Form Agreement with Fujitsu was £76.7m. The Authority is seeking to recover some of this – and other costs – from Fujitsu via formal arbitration proceedings.

The cost of the transfer.

- The total cost of BT data centre commissioning and migration of the 7 remaining Live Sites to the BT data centre was £73.84m

The running costs till the end of the contract.

- The total Service Charges payable to BT for acutes between contract signature (March 2009) and the Contract end (October 2015) is £127.15m

The anticipated annual running costs payable by Trusts after the contract ends.

- At this stage, I cannot give an accurate answer to this question. The charges payable by an individual trust cost could vary greatly depending on the size of the trust and the scope of the services, where they procure those services from etc. The LSP contracts do provide for a 1 year extension and for a further period of up to 2 years extension during the Termination Period while Services are being transferred.

I trust this has been helpful.

Yours sincerely

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