



## **PROCUREMENT AND TENDERING POLICY**

Responsibility:	Chief Finance and Operations Officer
Approved by Board:	14 July 2022

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## 1 INTRODUCTION

This policy applies to the City of London Academies Trust ("the MAT", or "the Trust").

The Trust is required to comply with the current Academy Trust Handbook (formerly Academies Financial Handbook), Funding Agreements with the Department for Education (DfE), any DfE guidance including academy procurement resources and the Public Contracts Regulations 2015 (the Regulations). Under the Trust's Funding Agreements and as a registered charity, the board of trustees has specific obligations to ensure value for money.

It is important to note that the Trust is the sole legal entity which can enter into contracts for itself and any of its academies. The academies themselves are not separate legal entities and any contracts awarded by individual academies will be binding on the Trust. All spend is recorded by the Trust to comply with DfE audit requirements.

This policy should be read in conjunction with the following other Trust policies:

- Finance Policy
- Scheme of Delegation
- Gifts and Hospitality

## 2 BASIC PRINCIPLES

This policy applies to any contract for services or supplies which results in a payment being made by the Trust or an academy.

The basic principle is that procurement must deliver value for money to the Trust.

All bidders in a competition ("Bidders") should be treated in a way which ensures equality of treatment, non-discrimination and transparency.

All Bidders must be given the same information at the same time, and no Bidder should be treated more favorably than another;

There must be clear and transparent timescales, requirements, specifications and deadlines to comply with any competition.

### **Who can buy?**

Although budgets are delegated to individual academies, not all employees of the Trust can buy for the Trust. The procedures for revenue and capital purchasing (to include delegating budgets to budget holders, raising orders for goods and services, processing invoices and credit notes and payment of suppliers) will be defined locally at each Academy ensuring appropriate levels of authority, required approvals and segregation of duties, and accurate recording of all transactions including accruals and commitments.

### **Exemptions to this document**

This document must be followed in all but exceptional circumstances.

Some types of arrangements fall outside of the procurement rules, such as employment contracts. This may also include some types of Special Education Needs provision, but this should be checked with the Trust Chief Financial Officer (CFO) for clarification as required.

Any exemptions should only be relied upon with express written consent from the CFO and the Trust Chief Executive Officer (CEO). The CFO should be consulted if there is any uncertainty about any procurement, and before any orders are placed or contracts signed on behalf of the Trust.

### **Actions before purchase**

Whenever practical, for spends above £10,000, checks should be made with the other academies in the Trust to establish whether they have a need for a similar purchase. If so, then the 'spend' must be included within the same contract.

Consider how the purchase is going to be sourced. Can the Trust use an existing framework agreement (see below), or can another academy meet the requirement?

As set out below, wherever possible and if suitable, existing framework agreements (particularly for high value contracts) should be used, in preference to a new procurement exercise.

As a minimum requirement, you must have a written specification or requirement statement setting out clearly what you want to buy. This means establishing in advance what you want the goods, or services to deliver, together with the quantity, maximum cost and delivery / completion requirements.

### **Using existing framework arrangements**

Wherever possible and in accordance with the current Academy Trust Handbook and DfE policy, the Trust should avoid running its own procurement processes, and instead use an existing framework arrangement.

From time to time the Trust may also set up its own framework agreements which can be used by all academies. Such frameworks will be notified to academies.

### **Where can I find a framework?**

Check with the following organisations to see if there is an existing contract /framework agreement for the goods or service you want to buy:

[Crown Commercial Service \(CCS\)](#)

[The Crescent Purchasing Consortium \(CPC\)](#) \_\_\_\_\_

[Pro5](#)

[ESPO](#)

[YPO](#)

There may also be other frameworks available which are suitable for academies. The CFO should be consulted before using a framework provided by an organization not listed above.

Registration with some of these organisations may be necessary, but this is a simple process. More information can be found on the DfE website:

In each case, it is important that:

- The Trust is entitled to call off from the arrangement. You should check in each case:
- The specification and the contract terms are suitable for your particular needs. The terms and conditions from frameworks are generally set in advance and cannot be changed beyond the mechanism set out in the framework

The framework's guidance must be followed, particularly about how orders should be placed. This will either generally permit (a) direct awards of contracts to a supplier and/or (b) mini competitions between all suppliers with capacity to deliver the requirement on the framework.

### 3 APPROVAL LIMITS

Different rules apply depending on the value of the purchase you want to make.

The Trust's current spend thresholds are set out below.

Value of spend (exclusive of VAT)	Which rules apply?	Tender Process Required for Academies	Tender process Required for Central MAT function
Up to £2,750	Low Value	Best Value principles applied	
£2,751 to £5,500	Low Value	Minimum 2 written quotations	
£5,501 to £11,000	Low Value	Minimum 3 written quotations	
£11,001 to £50,000	Medium Value	Business Case with minimum 3 written quotations. Approval process determined by Terms of reference of Local Governing Body and its subcommittees	Business Case with minimum 3 written quotations. Approved by CEO.
£50,001 to £100,000	High Value	Formal tender process. Approval process determined by Terms of reference of Local Governing Body and its subcommittees.	Formal tender process led by CFO. Recommendation presented to MAT Board of Trustees for approval of spend.

Over £100,000 up to FTS thresholds	High Value	Formal tender process approved by Local Governing Body with additional approval from MAT Board of Trustees.	Formal tender process led by C F O . Recommendation presented to MAT Board of Trustees for approval of spend.
Over FTS threshold	Full FTS tender process with recommendation presented to MAT Board of Trustees for approval of spend.		

### **Valuing your contract**

It is important that contracts are properly assessed for value. In particular, you must not deliberately divide one contract into smaller contracts with the effect of avoiding the procurement rules.

The contract value is based on the total value of the 'spend' over the life of the contract which is the subject of the procurement. The requirements of all academies should be combined into one procurement if they are the same or similar.

If you do not know what your exact spend is going to be over the life of the contract, you must take an average annual spend and multiply by the estimated duration of the contract.

The estimated duration of the contract must include any extensions or options to renew.

### **Low Value transactions (up to £2,750)**

For all transactions of a similar type with a total value of up to and including £2,750 exclusive of VAT, competitive quotes are not needed and the best value approach should be taken.

Academies must follow their own purchasing rules, and comply with their own budget delegation and segregation of duties requirements.

### **Low Value transactions £2,751-£5,500**

For transactions between £2,751 and £5,500 for Goods and Services at least 2 written quotations should be obtained; the Head of Finance in the Academy will then compare prices and options. A Best Value Form should be completed.

### **Low Value transactions £5,501-£11,000**

For transactions between £5,501 and £11,000 for Goods and Services, at least 3 written quotations should be obtained; the Head of Finance will then compare prices and options. A Best Value Form should be completed

### **Medium Value transactions from £11,001 up to £50,000**

For medium value transactions, a business case and three written quotes must be submitted for the purchase approval.

The business case must include as minimum:

- Detailed Specification of Requirements;
- Benefits to the organisation and best value for money;
- Reason for the choice of preferred supplier; and
- The outcome of the evaluation process.

For Low and Medium Value transactions an Academy may seek approval for a contract or purchase with a lower number of quotes/tenders than specified in the policy in the following circumstances:

- a) where it has not been practicable to obtain the required number of quotations, e.g. because one or more suppliers have refused to quote
- b) where specialist expertise or products are required and are only available from a very limited number of suppliers
- c) works, supplies or services are urgently needed for the immediate protection of property or to maintain the immediate functioning of the school
- d) a funding/grant provider has specifically stipulated that a particular supplier be used for the procurement of goods and services to complete the project.

However, in instances a, b or c for Medium Value transactions a minimum of two written quotes/tenders must still be obtained. In ALL four circumstances, the reasons for seeking approval with a lower number of quotes/tenders must be fully documented as part of the approval process.

#### **High Value transactions £50,001 to FTS Thresholds**

High value transactions will be subject to a business case and formal tender process as described below.

## **4 FORMAL TENDER PROCESS**

### **FORMS OF TENDER**

There are four forms of tender procedure and the circumstances in which each procedure should be used are described below.

**Open Tender:** This is where all potential suppliers are invited to tender. The budget holder must discuss and agree with the Head of Finance how best to advertise for suppliers e.g. general press, trade journals or to identify all potential suppliers and contact directly if practical.

This is the preferred method of tendering, as it is most conducive to competition and the propriety of public funds.

**Restricted Tender:** This is where suppliers are specifically invited to tender. Restricted tenders are appropriate where:

- there is a need to maintain a balance between the contract value and administrative costs
- a large number of suppliers would come forward or because the nature of the goods are such that only specific suppliers can be expected to supply the Trust's or Academy's requirements
- the costs of publicity and advertising are likely to outweigh the potential benefits of open tendering

**Competitive Dialogue Process** is an exceptional procedure and should only be used where the contracting authority wishes to award a particularly complex contract. A particularly complex contract means a contract where the contracting authority is not objectively able to:

- define 'the technical means' in terms of a British, European or international standards or technical specifications; and/or in relation to the performance or functional requirements; or
- specify the legal and/or financial make-up of a project.

**Negotiated Tender:** The terms of the contract may be negotiated with one or more chosen suppliers. This is appropriate in specific circumstances:

- the above methods have resulted in either no or unacceptable tenders
- only one or very few suppliers are available
- extreme urgency exists
- continuation with the existing supplier is justified

## **PREPARATION FOR TENDER**

Prior to embarking on a procurement exercise consideration should be given to the criteria by which tenders will be assessed. These may include financial aspects (ensuring full costs are considered), technical performance, supplier reputation, experience and other value-added aspects. Each of the criteria can be weighted appropriately in the light of the importance attached to those particular aspects.

Full consideration should be given to:

- objective of project
- overall requirements
- Best value for money
- Benefits to the academy (financial/non-financial)
- Detailed specification of the requirement
- Technical skills required
- Market testing
- After sales service requirements
- Form of contract.

It may be useful after all requirements have been established to rank requirements (e.g. mandatory, desirable and additional) and award marks to suppliers on fulfilment of these requirements to help reach an overall decision.

## **INVITATION TO TENDER**

If a restricted tender is to be used then an invitation to tender must be issued. If an open tender is used an invitation to tender may be issued in response to an initial enquiry.

An invitation to tender should include the following:

- introduction/background to the project
- scope and objectives of the project
- technical requirements



- implementation of the project
- terms and conditions of tender
- form of response

Bidders requesting more information must be sent a tender pack. This should contain a covering letter outlining the tendering process and instructions, the requirement and needs, together with any additional information required from the bidders. This will need to be bespoke in each case but could include, for example:

- details of pricing;
- details of method statements;
- details of product characteristics;
- the evaluation criteria which will be used to evaluate the tenders received, including disclosure of the criteria, sub criteria and weightings that will be applied to select the best Bidder(s); and
- a draft set of contract terms and conditions.

## **TENDER ACCEPTANCE PROCEDURES**

The invitation to tender should state the date and time by which the completed tender document should be received by the Academy/Trust. Tenders should be submitted in plain envelopes clearly marked to indicate they contain tender documents. The envelopes should be time and date stamped on receipt and stored in a secure place prior to tender opening. Tenders may be provided in hard copy, or via email. In the case of hard copies, they must bear no external markings to identify the tenderer. In the case of email, tenders should be sent to a separate email address (e.g. [procurement@cola.org.uk](mailto:procurement@cola.org.uk)) which cannot be accessed by those who will be evaluating the tender. After the submission deadline all tenders must be circulated to the assessors at the same time.

Tenders received after the submission deadline can be declined.

## **TENDER OPENING PROCEDURES**

All tenders submitted should be opened at the same time and the tender details should be recorded. Two persons should ideally be present for the opening of hard-copy tenders and should include the Head of Finance.

A separate record should be established to record the names of the firms submitting tenders and the amount tendered. This record must be signed by the people present at the tender opening.

## **TENDER EVALUATION AND DECISION**

When evaluating tenders consideration should be given to:

**Cost** - Care should be taken to ensure that competing suppliers have quoted for the same service. Where discrepancies arise, suppliers should be contacted to amend their quotes where necessary to ensure a fair comparison between suppliers. There may be scope for negotiation on cost if a particular supplier is preferred for quality/suitability reasons, but is not the cheapest.

**Quality/Suitability** - Due regard should be given to the qualifications and experience of the contractor, and the quality and suitability of the goods/services offered. Where necessary, references should be sought from other customers.

The evaluation process should involve at least two people. Those involved should disclose all interests, business and otherwise, that might impact upon their objectivity. If there is a potential conflict of interest then that person must withdraw from the tendering process.

Those involved in making a decision must take care not to accept gifts or hospitality from potential suppliers that could compromise or be seen to compromise their independence.

Full records should be kept of all criteria used for evaluation, and a one-page summary report prepared for approval by the relevant party, summarising the options and giving a recommendation.

Where required by the conditions attached to a specific grant from the DfE, the department's approval must be obtained before the acceptance of a tender.

The accepted tender should be the one that is most economically advantageous.

## **AUDIT TRAIL**

A clear audit trail must be kept for all purchases. The level of detail required will increase with the value of the procurement. The written record must include:

- who was responsible for making the decision to procure, and details of their decision-making process;
- full minutes of any meetings at which the procurement was discussed;
- who was responsible for evaluation of tenders, and details of the evaluation, if applicable;
- who was responsible for receiving and checking the goods or services and for authorising and making payment;
- details of the purchase itself, for example, what was purchased, from whom and for what price; and
- be available to the Accounting Officer at all times for audit purposes as required.

In each case, the written record must include copies of all original documentation used during the procurement such as tender packs, quotations, contracts and invoices.

## **TENDERING FOR MAJOR CONTRACTS VIA THE FIND A TENDER SERVICE (FTS)**

In rare circumstances the Trust or an individual Academy may tender for supplies where the value exceeds the FTS procurement threshold. For tenders above this threshold, the Trust would be required to either tender for the work via a compliant purchasing consortium, or by inviting tenders on the FTS website. In both cases the principals above remain, but when advertising directly with FTS, there are certain additional procedures which need to be followed.

The Trust must first register as a buyer on the FTS website. A tender specification can then be uploaded, giving a minimum time of 52 days in which to respond. Once all tenders have been received and evaluated, and a decision made at by the Trust, a "decision notice" or "standstill letter" must be issued to all candidates, giving the following information:

- the award criteria used
- reasons for the decision including the characteristics and relative advantages of the successful tender
- the scores obtained by the recipient of the letter and the successful contractor

- a statement of when the standstill period is to end. If the letter is sent by electronic means, this period will be 10 days

Once the standstill period has ended, the contract can be awarded officially. A contract award notice must be issued in the FTS within 48 days of the award of the contract.

## APPENDIX 1 – BEST VALUE FORM FOR LOW VALUE COSTS

Detailed overview of goods and/or services required			
Existing Alternatives within the Trust	Internal HR and finance team – insufficient capacity due to current HR caseload and changes in central finance team.		
Why needed and benefits to the Trust	The new payroll system is due to go live in July 2023. It is vital that the build of the new payroll is fit for purpose and that the data transferred is valid, clean and complete. Expertise and capacity is required to deliver this project well and on time.		
Anticipated cost			
Summary of quotes received	1	2	3
Supplier			
Cost			
Comments	Given the timescales and the niche nature of the project, only one quote has been received as attached.		
Reason for choice if not cheapest (include separate page if required)			
Prepared by:	Signed:	Date:	
Approved by:	Signed:	Date:	
Approved by:	Signed:	Date:	

*Please attach copies of all quotes*